

University of Montana

ScholarWorks at University of Montana

Graduate Student Theses, Dissertations, &
Professional Papers

Graduate School

1942

Political life of William Andrews Clark

Clayton Farrington

The University of Montana

Follow this and additional works at: <https://scholarworks.umt.edu/etd>

Let us know how access to this document benefits you.

Recommended Citation

Farrington, Clayton, "Political life of William Andrews Clark" (1942). *Graduate Student Theses, Dissertations, & Professional Papers*. 3247.
<https://scholarworks.umt.edu/etd/3247>

This Thesis is brought to you for free and open access by the Graduate School at ScholarWorks at University of Montana. It has been accepted for inclusion in Graduate Student Theses, Dissertations, & Professional Papers by an authorized administrator of ScholarWorks at University of Montana. For more information, please contact scholarworks@mso.umt.edu.

THE POLITICAL LIFE OF WILLIAM ANDREWS CLARK

By

Clayton Farrington
(A. B., Montana State University, 1923)

Presented in partial fulfillment of the
requirement for the degree of
Master of Arts

Montana State University

1942

Approved:

E. E. Bennett

Chairman of Board
of Examiners

W. G. Bateman

Chairman of Committee
on Graduate Study

UMI Number: EP36135

All rights reserved

INFORMATION TO ALL USERS

The quality of this reproduction is dependent upon the quality of the copy submitted.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if material had to be removed, a note will indicate the deletion.



UMI EP36135

Published by ProQuest LLC (2012). Copyright in the Dissertation held by the Author.

Microform Edition © ProQuest LLC.

All rights reserved. This work is protected against unauthorized copying under Title 17, United States Code



ProQuest LLC.
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106 - 1346

TABLE OF CONTENTS

CHAPTER	PAGE
INTRODUCTION AND FOREWORD	i
I. A BRIEF SKETCH OF CLARK'S LIFE AND CHARACTER.	1
II. CLARK AND EARLY MONTANA POLITICS.	10
III. THE CLARK-DALY FEUD	28
IV. CLARK'S DECISION TO BE A CANDIDATE IN 1899; HIS HENCHMEN. . .	41
V. THE WHITESIDE EXPOSURE.	55
VI. THE GRAND JURY INVESTIGATION.	83
VII. WHITESIDE'S LATER DIFFICULTIES.	96
VIII. CLARK'S ELECTION TO THE SENATE.	105
IX. THE DISBARMENT OF JOHN B. WELLCOME.	114
X. THE SENATORIAL INVESTIGATION.	142
XI. CLARK OUTWITS THE MEMORIALISTS.	246
XII. CLARK'S FINAL VINDICATION	255
XIII. CLARK'S RECORD IN THE SENATE.	265
BIBLIOGRAPHY.	314
APPENDIXES	
I. CLARK'S NEZ PERCE ADVENTURE.	318
II. SHORT SKETCHES	319
III. WHITESIDE IN NEILL'S OFFICE.	324
IV. MURDER IN PRECINCT VIII.	326
V. TABULATION OF LEGISLATIVE MEMBERS VOTING FOR CLARK IN SENATORIAL ELECTION OF 1899	329

INTRODUCTION AND FOREWORD

The accounts and sketches of Senator William Andrews Clark portray him in a very contradictory manner. As a result, it is extremely difficult to obtain a really accurate statement in regard to his true self. The sketches to be found in Progressive Men of Montana and the History of Montana, by Helen F. Sanders, are highly eulogistic and laudatory with considerable fiction interwoven with fact. These accounts are very similar and, since Mrs. Sanders' work was published some ten years after the other book, she no doubt relied upon the earlier work for much of her information.

A few extracts will suffice to illustrate. Progressive Men of Montana says:

"For all the brave men who have dared the perils of the plains and fought step by step for mastery and control of the territory against the alert and hostile savages, and then turned from the sanguinary battlefield to the pleasanter paths of peace and commercial industry, gaining rewards in wealth and honors..., none has been more conspicuous in sunlight or shadow, peace or war, panic or prosperity, than Senator William A. Clark.

.....

"That he would have developed into an able and successful attorney is without question; and instead of individually exploiting the vast enterprises with which his name is now associated, he might have been now receiving retainers from similar gigantic corporations.

.....

"There is no one in the state with a higher broader sense of public duty. The services he has rendered to his party, city, state, and country may be called invaluable."¹

¹Progressive Men of Montana, (Chicago, A. W. Bowen & Co., cir. 1902), pp. 1104 and 1106.

These statements in the main are only polite fiction, or at best gross exaggeration. It is well known that Clark never did fight the Indians, even when he led the Butte Battalion in the Nez Perce war; his great bravery is highly questionable--he undoubtedly had many chances to fight in the Civil War but did not. Whether he would ever have been a great lawyer is highly improbable--he studied law only a short time, and very likely was far more interested in other intellectual pursuits. His great success in business does not mean necessarily that he would have been successful in almost every other field. It is probable, too, that Clark looked upon success in politics more from the standpoint of personal prestige and fame than from a sense of public duty. His "invaluable services" to the nation included opposition to Roosevelt's conservation policy and the Hepburn Act, because he was financially interested in both cases.

Mrs. Sanders in the History of Montana makes the following statements:

"A pioneer of pioneers, a man of courage and ambition, ...a citizen loyal and progressive in all things, Senator Clark has been a dominating force in the civic and industrial development and upbuilding of Montana, and for all time will the state owe him a debt of gratitude and honor....

.....

"...in the midst of his great industrial and financial interests Mr. Clark...has not denied to the State and Nation services of a high order--services which Time is proving to have been of greater value than were shown by contemporary estimates...Senator Clark has manifested a high stamp of civic stewardship, is admirably fortified in his opinions touching matters of governmental and economic polity, and his loyalty as a citizen and as a stalwart supporter of the cause of the Democratic Party cannot be impugned, the while

popular appreciation of his public service must continue, cumulative with the passing of years."²

Mrs. Sanders slides over his career in the Senate very nicely by saying:

"Of his service in the United States Senate it is not necessary to give details in this article, for his record has become a very part of the history of that body and one which redounds to his credit and honor."³

Concerning the fact that the Senate refused to seat him because of his questionable election to that body, on account of bribery, both the sketches of Clark in the books referred to give the following verbatim:

"On his application for permission to take his seat, partisan politics again intervened, and at the request of the Republican majority in the Senate, the question of his seating was held in abeyance."⁴

Both these texts are also exactly alike in regard to the opposition to him in 1900, when he was again a candidate for the Senate:

"Certain well known and strong corporate interests threw large sums of money into the state, ostensibly for the defeat of the Democratic state ticket, but in reality to defeat his senatorial aspiration...immense sums were expended, the while there was established in Butte an extensive art plant, apparently for the sole purpose of supplying political caricature directed against him."⁵

²Helen F. Sanders, History of Montana, (3 Vols., Chicago, The Lewis Publishing Co., 1913), II, pp. 854 and 858.

³Ibid., p. 859.

⁴Progressive Men of Montana, p. 1107. Sanders, History of Montana, II, p. 858.

⁵Progressive Men of Montana, p. 1108. Sanders, History of Montana, II, p. 859.

Concerning his generosity Mrs. Sanders says:

"To many he has given a helping hand and a cheering word of encouragement. His heart has been attuned to sympathy and tolerance, and those who know him best are they who will most earnestly attest to this. His has been a wonderful success in temporal affairs, but the generous, kindly heart of the man has shown itself above all and over all his activities, with the result that he merits the high regard in which he is held in the state...."⁶

Again it is easily seen that all these remarks are extremely in Clark's favor; certainly they cannot be considered other than very friendly in character, highly eulogistic, but at the same time largely fictitious and even untrue.

Other reports take the opposite extreme. The most famous one by C. P. Connolly in his Story of Montana paints Clark very unfavorably, and in a most condemnatory manner. All the worst things of Clark's career are emphasized, whereas little is said about the better side of his life. Yet undoubtedly Connolly was prejudiced against Clark because he could not help being so. He was an extreme partisan of Clark's implacable enemy, Marcus Daly. It is to be believed that Connolly probably made an attempt to be fair. In many cases he gives Clark credit, where credit was unquestionably due. The ensuing statements are typical:

"Inordinately vain, Clark loved the flattery and adulation of women. He was a Beau Brummel in the midst of the awkward inelegance of the West. His taste and cultivation made him conspicuous among the miner millionaires of Montana, and his intelligence would have won for him the respect of all his fellows had it not been offset by a cold and treacherous temperament and a certain narrowness and selfishness which marked all his dealings with men. With all his wealth...he

⁶ Sanders, op. cit., II, p. 859.

had the reputation of being extremely close-fisted in his business relations and in his occasional contributions to public funds.⁷ This was true of him at all times, except when his own political interests seemed in jeopardy, or when Daly goaded him to the point of revenge. Even in politics he made himself unpopular by the bluntness of his bribes and his subsequent coldness toward those who had served him loyally. Men who had made personal sacrifices for him in politics often found it difficult to obtain ordinary business favors from him. His contributions to political committees were small."⁸

It is evident that the ideas of Mrs. Sanders and Mr. Connolly in regard to Clark's generosity are as wide apart as the poles. In regard to all these statements the truth is undoubtedly between these two extremes. It is true that Clark sponsored some philanthropic enterprises. He built the Paul Clark Home in Butte for orphans; he developed the beautiful Columbia Gardens for a children's playground at Butte; and he built the Mary Andrews Clark Home in Los Angeles, which he turned over to the Y.W.C.A. for a girls' home. Nevertheless, Clark was very cautious in money matters, and was extremely exacting in any business deal.

The best short and unprejudiced account of Clark is to be found in the Dictionary of American Biography. This sketch, written by Professor Paul C. Phillips, formerly of Montana State University, is true

Ind. doc. ⁷Yet there is evidence to show that Clark was sometimes generous in small matters. A friend of the author, named McKay, who sold papers on the streets of Butte when Clark lived there, claims that Clark was very generous with newsboys--that on one occasion at least he gave a boy a five dollar bill for a paper. One of the main reasons why Clark was regarded as close-fisted was because he would not put money into an enterprise which he had any reason to believe would not succeed. Clark had an uncanny ability to pick flaws in someone else's business plans--and he was nearly always right.

⁸C. P. Connolly, "The Story of Montana," in McClune's Magazine, XXVII (1906), p. 456.

and accurate in every detail, but its very brevity makes it of little benefit for this thesis. It is, however, a valuable chronological outline.

Another short sketch by H. R. Knapp appeared in the Cosmopolitan⁹ while Clark was serving in the Senate. This article, while it depicts accurately his business career, nevertheless is somewhat inclined toward hero-worship; it shows too much of the sentiment of praise for the man who by his shrewdness has been able to accumulate great wealth. Quite naturally most people approve of the man who does something, when other experts say that it cannot be done; and this was somewhat true in the case of Clark's development of his Arizona mine, which this article describes.

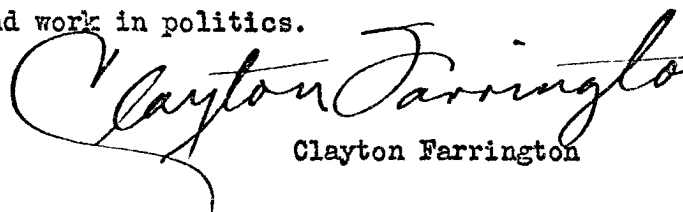
A more recent account, The Clarks of Montana, by W. D. Mangam, who was a schoolmate of W. A. Clark, Jr., and a confidential agent of the family for years, is also critical and condemnatory. Mangam has considerable to say of the extra-marital affairs of not only the Senator, but of his children also. The account of the Senator tells of his political life as well, so has been helpful.

The Montana newspapers of the time were filled to overflowing with editorials and news stories about Clark. The Butte Miner, Clark's own paper, naturally was in his favor, whereas The Anaconda Standard, the organ of Marcus Daly and the Anaconda Copper Company, was extremely bitter against him. Such biased material is quite unreliable even though

⁹ Henry R. Knapp, "William Andrews Clark," in Cosmopolitan, Feb. 1903, p. 475.

the newspaper articles relate the events as they unfolded in Montana's history.

The records of the Montana legislature and of the national Congress have been most helpful. It must be remembered that this thesis is written primarily as a study of Mr. Clark as a politician and statesman. Of his career as a business man, the only interest is incidental, since it must affect his life and work in politics.

A large, elegant handwritten signature in cursive script, reading "Clayton Farrington". The signature is written in dark ink and is positioned above the printed name.

Clayton Farrington

CHAPTER I

A BRIEF SKETCH OF CLARK'S LIFE AND CHARACTER

William Andrews Clark was the richest man that Montana has produced, and probably the most fascinating. The very fact that he sometimes strayed from the accepted standards and conventions in his unscrupulous use of money makes him an exceedingly interesting character.

His political career is exciting enough to win the admiration of an adventure-story "fan." His personal character would be a most intriguing study to the psychologist. His rise from poverty to immense wealth is an example of how energy and intelligence may ultimately attain success. Clark was always ambitious; he was ambitious to get ahead financially and to be a power in the world of business. He succeeded in this respect far beyond the fondest hopes of his earlier days. At the time of his death, he was considered the eighth richest man in the United States.¹ He was ambitious socially. The easiest way to succeed in this was through the medium of wealth and politics. He was also ambitious politically, and in this he was more successful than in attaining distinction in polite eastern society. The East is somewhat noted for its snobbery. Birth and ancestry sometimes form such ironclad barriers that even immense wealth cannot break into its exclusiveness.

¹Labor, a weekly newspaper, published in Washington, D. C. Issue of March 7, 1925. Mangan claimed that his properties at the time of his death were worth in the neighborhood of \$200,000,000. W. D. Mangan, The Clarks of Montana, 1939, p. 78. The Montana Standard, issue of April 8, 1933, listed the total value as \$48,000,000.

While residing in Washington, D. C., as United States Senator from Montana, Clark found considerable unfriendliness, at least so he thought. His questionable election always hung over him like an angry cloud. Legendary accounts have it that Clark was spiteful toward Washington society because of its shabby treatment of him. There is some evidence to show that, after he had finished his senatorial term and retired to his beautiful mansion in New York, the people there treated him little better than had those in Washington. His name was in the Social Register, however, after 1894. This distinction pleased him but, even so, the Fifth Avenue home saw comparatively little entertaining.

According to an unfriendly contemporary, C. P. Connolly: "Clark was reticent and exclusive--by nature rather than from policy. His manner had something of the dreamer."² In comparison with Marcus Daly, his great competitor and rival in Montana politics and the mining industry, Connolly noted that Clark...

"lacked Daly's tremendous energy and personal magnetism. He also lacked his ready wit and the slashing force which accomplished big things on the stroke of the clock. But he was a man of quiet, earnest persistence and when forced to the wall, rarely gave up the struggle without showing fighting-teeth and leaving a trail of havoc."³

This view was published while Clark was still in the Senate.

Another view, written about four years after Clark's death, is as follows:

²C. P. Connolly, "The Story of Montana," in McClune's Magazine, XXVII (1906), p. 456.

³Ibid.

"Clark was a man of unusual and contradictory characteristics. Refined and even fastidious in manner⁴, he could nevertheless deal with all classes of people. Even though he was intellectual and an artistic dreamer, he was coldly practical in finance and politics. He was self-reliant and always formed his policies and directed their execution with little regard for the opinions of others."⁵

He was born near Connellsville, Fayette County, Pennsylvania, on January 8, 1839. His boyhood was passed upon his father's farm, where he received the benefits of three months' schooling during the winter months. He entered Laurel Hill Academy at the age of fourteen. Three years later, in 1855, the family removed to Van Buren County, Iowa. Here Clark, when only eighteen years of age, taught two terms of a district school. He then attended another academy at Birmingham, Iowa, for one term; later he was a student for two years at the Iowa Wesleyan University at Mount Pleasant, where he studied law.⁶

In 1859-60 Clark was in Missouri, again engaged in the teaching profession. This ended his work in education and teaching, except for a

⁴Many of Clark's contemporaries point out that he was one of the vainest men that ever lived. He loved the adulation of the crowd. When he would arrive in Butte from a railway trip, he would stand on the steps of the coach, expecting a cheer from the unorganized mob at the depot. His political cohorts always tried to see that a few people were there to start the huzzahing and hand-clapping. A free ride back to town was the recompense for this little spasm of materialistic and idolatrous hero-worship. Too often the crowd was composed of little more than the dirty-faced, undernourished, and boisterous children of the foreign riff-raff. Clark was also very vain and concerned about his reddish whiskers. They were always combed out and arranged just so, and perfumed to the nth degree of olfactory perfection.

⁵Paul C. Phillips, Sketch of Clark in Dictionary of American Biography, IV, p. 145.

⁶Sanders, op. cit., II, p. 855.

brief course in mineralogy, with special emphasis on assaying and analysis which he took at Columbia University in the winter of 1872-73.⁷

Shortly after Clark quit teaching in Missouri, the Civil War broke out. Missouri at that time was not any too desirable a place in which to be. Clark was located in Cooper and Pettis Counties, where no doubt there was much animosity between the partisans of the North and South. These two counties are located in the central part of the State, and south of the Missouri River. Just what Clark's attitude was concerning the war cannot be ascertained, but it appears that he did not enter the Union Army.⁸ If he had any sympathies at all, they should have been with the North, since nearly all of his life up to that time had been spent in Pennsylvania and Iowa. By the time the Conscription Act had been passed, March 3, 1863⁹, he was no longer in Missouri, nor at his father's home in Iowa, but in that trackless mountainous region of the great West, where even the Indians did not provide as real a danger as did the Southern guerrillas and bushwackers of Missouri. At any rate he drove a team of cattle across the plains to South Park, Colorado, in 1862.

⁷Progressive Men of Montana, p. 1105.

⁸The only statement concerning this phase of his life is from Mangam: "Some time between then April, 1861 and the autumn of 1862, he fought with the Rebels, but in later years he spoke of it to only a few intimates. Why he left the war will perhaps never be publicly known. He may have deserted or he may have been discharged, but he was not disabled. In his own reminiscences he has chosen to ignore this period of his life. Mangam, The Clarks of Montana, pp. 3-4. The statement, "he fought 'with' the Rebels," is not clear.

⁹James Ford Rhodes, History of the United States from the Compromise of 1850 to 1877, (7 Vols., New York, The Macmillan Co., 1909), III, p. 237.

The one well-known military episode in Clark's life came some years later, after he had achieved considerable prominence. In 1877 the Nez Perce Indians were still on the warpath. Governor Potts called for volunteers to repel them. Without any previous military experience, and only because of his wealth and prestige, Clark received the commission of major in the Butte Battalion. Clark did not see any fighting. He was never even close to the great Indian, Chief Joseph. Nevertheless, he enjoyed the added notoriety which came from leading the battalion across the country, and being proclaimed "major."¹⁰

It was in Colorado during his first winter sojourn that Clark received his first experience in quartz-mining. The next year, 1863, in company with other prospectors he went to Bannock, Montana, by ox team. He had heard that gold had been discovered there. He soon joined a stampede to Horse Prairie Creek. Here he was lucky enough to strike a rich claim, washing out \$1500 worth of gold. This was the beginning of his great fortune. He did not continue to prospect but entered into something in which the returns were more certain. He started a store at Virginia City and received his first stock of goods from Salt Lake City, but subsequently bought materials also in Idaho and on the Pacific Coast. Clark was a shrewd buyer. He handled the things that the miners wanted: proper clothing, tools, tobacco, etc. He always sold these things at a good profit. On one occasion when there was a scarcity of tobacco, Clark sold several thousand pounds at \$5 and \$6 a pound, whereas it had cost

¹⁰See Appendix I.

him \$1.50 plus transportation from Idaho. He later had stores at Elk City, another Montana mining camp, and at Last Chance Gulch, now Helena.

In 1867, Clark, ever watchful for business opportunities, obtained the contract to transport the mail from Missoula to Walla Walla. He did not carry the mail himself but hired others to do the work; nevertheless, he made a profit on the undertaking. By this time he had become wealthy. He entered into partnership with R. W. Donnell of New York and S. E. Larabee of Montana in banking and wholesale merchandise. The firm's first bank was established in Deer Lodge in 1870, and another bank was started in Butte in 1877.¹¹

Before the establishment of the Butte bank, Clark had begun to acquire the Butte copper mines, which were to make him one of the richest men in the United States. In 1872 he bought the Original, Colusa, Mountain Chief, and Gambetta mining claims at Butte. His work at Columbia enabled him to gain the knowledge necessary to check and tally the reports of his own experts and to detect flaws in a mining venture, even after a favorable report. He extended his operations a little later to Jerome, Arizona, where he purchased the United Verde mine and its smelter. It was his technical expertness that led him to buy and develop this mine after others had condemned it. In 1873 he received the Trevonia and other mining claims of one William L. Farlin through default, since Farlin was unable to pay back a \$30,000 loan to Clark's Butte Bank.¹²

¹¹Phillips, op. cit., p. 144.

¹²Connolly, op. cit., pp. 456-7.

He then formed the Colorado and Montana Smelting Company and built the first smelter in Butte. He established the huge Butte Reduction Works; and he acquired the Em Orlu, the greatest of the Butte mines.¹³

Clark did not permit mining to occupy his entire financial attention. He organized the Los Alamitos Sugar Company and built a large sugar refinery near Los Angeles. He built the San Pedro, Los Angeles, and Salt Lake Railroad and sold it to the Union Pacific, of which company he subsequently became a director.¹⁴ He acquired coal mines in New Mexico and Colorado; he owned a granite quarry at North Jay, Maine; he was the principal owner of the Waclark Wine Works at Elizabethport, New Jersey; he owned a bronze manufactory under the title of the Henry Bonnard Bronze Company at Mt. Vernon, New York; and he had other real estate investments in Montana, New York, and the District of Columbia.¹⁵

Clark was married in March, 1869, to Miss Kate L. Stauffer, of Connellsville, Pennsylvania. To this union were born five children. Mrs. Clark died October 19, 1893. On the 25th of May, 1901, Clark was married for a second time to Miss Anna E. Lachapelle.¹⁶ To this union were born three children.

¹³Phillips, op. cit., p. 144.

¹⁴Ibid., p. 145.

¹⁵Sanders, op. cit., II, p. 856.

¹⁶This was the date as given by Senator Clark himself in July, 1904. No one knew of the marriage until that time. Clark claimed that the marriage was kept secret because his wife wished to remain in Europe and continue her studies. Furthermore, she did not wish to assume as yet the social obligations and responsibilities that would entail upon the wife of a copper magnate and United States Senator. No records of the marriage on that date could be produced.

He was fond of art and became a judge of good pictures. In later years when he had built his palatial New York home, it housed one of the largest private art galleries in America. Contemporary accounts indicated that in his collection were to be found examples of the finest and the worst of European Art. Among other materials were to be found some splendid specimens of such great artists as Titian, Van Dyck, Rembrandt, Franz Hals, Rubens, Reynolds, and Gainsborough.¹⁷

Clark was also fond of travel. After he became wealthy, he traveled extensively. He spent considerable time in Europe, and maintained a residence in Paris. He had studied French and had a fairly accurate knowledge of it; he also had a smattering of other languages. This study and travel in Europe made him a polished man of affairs, without losing his grip on business.¹⁸

A contemporary article written while Clark was in the Senate gives the following characterization:

"In person, Clark is slight. He is five feet seven inches and weighs one hundred and forty pounds. In dress, he is precise, though quiet. To see him on Wall Street, one would never imagine the steps by which he has climbed, unless his eye were caught. Then the man stands out--unalterable determination and inflexible purpose shine forth. The square chin and the prominent nose evince courage and determination, persistency and strength.

"Clark is shrewd, exacting and honest in all business transactions. He exacts all the contract calls for, but he is prompt to pay the stipulated price. He weighs every purchase by the question of worth, and this he applies to personal as

¹⁷Phillips, op. cit., p. 145.

¹⁸Henry R. Knapp, "William Andrews Clark," in Cosmopolitan, Feb. 1903, p. 475.

well as business matters. He is not ashamed of his lowly start, nor is he vainglorious of his success.

"In the Senate, Clark applies the same scrutiny to pending measures that he does to his business. He will win standing because of his acumen¹⁹, rather than by the advocacy of strenuous reforms."²⁰

After Clark's term in the Senate was completed, his active political life was over. He did, however, remain in close and comparatively active touch with his various businesses. Except for brief periods of travel, he spent the rest of his life in quiet retirement at his beautiful mansion in New York City. However, he claimed Montana as his legal residence. Words to this effect were to be found in his will.²¹ He was destined to live nearly two decades after his retirement from the Senate. He died on March 2, 1925, at the age of 86.

¹⁹John M. Evans, for many years Congressman from the first district of Montana, in his earlier days was an attorney for the Clark interests. He knew Clark personally and even intimately and worked for Clark's political advancement. But Evans was a liberal, and even though the two men belonged to the same party (Democratic) their views were very different. Evans as a Congressman made a speech declaring for a large income tax--in fact, to permit the government to take all the income over \$250,000 per year. After this speech Clark was never friendly to Evans; if he saw Evans on the street he would barely nod. The author learned this from Evans in a conversation in June, 1934.

²⁰Knapp, op. cit., p. 476.

²¹Statement of last will and testament published in Butte Miner, March 25, 1925.

CHAPTER II

CLARK AND EARLY MONTANA POLITICS

W. A. Clark early manifested an intense interest in politics. He seemed to have the idea, later perfected by Marcus A. Hanna, that there should be an alliance between politics and business. When Clark came to Montana in 1863, the only States in the union west of the Mississippi valley were California and Oregon. Montana was not destined to become a state for more than a quarter of a century. Clark was privileged to witness the great development of Montana through its various territorial stages until it was ready for statehood. As a result he knew Montana's political needs. Connolly points out that one of Clark's overweening ambitions was to occupy a position of political prominence; that he started out to master the rudiments of politics. He had learned the wisdom of "staying with" the things of his brain, the creations of his ambitions. His persistence was always one of his most effective weapons.¹

Clark's political career in Montana began in 1884 when he was selected as a member of the state constitutional convention², which

¹Connolly, op. cit., p. 460.

²As early as 1866, Montana had had a constitutional convention. It was just two years after it had been organized as a territory in the administration of President Abraham Lincoln. This early convention was without authority of law, but had been called by Acting Governor Thomas Francis Meagher, on petition of a number of citizens. In six days it brought forth a constitution largely copied from the one of California. The document was lost to posterity when it was taken to St. Louis by Thomas E. Tutt, a member of the convention. Proceedings and Debates of the Constitutional Convention, (Helena, State Publishing Co., 1921), Foreword.

convened at Helena on January 14 under the authorization of a House Joint Resolution. After twenty-seven days this convention adjourned on February 9. This constitution was ratified by the people of Montana at the general election held in November of that year, but Congress failed to take any action on the subject of Montana's admission into the Union.³ Clark had been chosen president of this convention, and presided with the utmost fairness and dignity. The fact that he was selected for the same position five years later speaks well for his impartiality and integrity in such a difficult situation.

Under the provisions of the Enabling Act of Congress, approved February 2, 1889, the Montana Legislature again provided for the holding of a constitutional convention. This convention met at Helena July 4, 1889, and adjourned August 17, 1889. The group, consisting of seventy-five members, drafted the present constitution of the State. It was ratified by the people at a special election October 1, 1889. On November 8 of the same year President Benjamin Harrison issued a proclamation admitting Montana into the Union as a sovereign State.⁴

The convention was called to order by Mr. L. A. Walker, Secretary of the Territory of Montana, at twelve o'clock noon, July 4, 1889. Mr. Clark was a delegate from Silver Bow County. He was the second man to speak following Secretary Walker. In forming a temporary organization, Mr. Walter M. Bickford of Missoula placed in nomination for temporary

³Proceedings and Debates of the Constitutional Convention, Foreword

⁴Ibid., Foreword.

chairman the name of Joseph K. Toole⁵ of Helena. Mr. Clark immediately rose to his feet and, after a few very complimentary remarks concerning Mr. Toole, seconded his nomination. George O. Eaton of Park County was also nominated. When the ballots were cast Mr. Toole became the temporary chairman by a vote of 36 to 31.⁶

On the second day, the convention perfected its organization and elected its permanent officers. When nominations were called for, Mr. Alfred Myers of Yellowstone County immediately took the floor and nominated Mr. Clark for president of the convention. Mr. Myers was very complimentary to Mr. Clark. Among other things he said:

"I rise to place before this Convention the name of Hon. W. A. Clark, of Silver Bow County. Anything that I can say in commendation of Mr. Clark, I feel would be unnecessary, as the gentlemen of the Convention are aware of his worth, his energy, and his eminent fitness for the place for which I name him...he was presiding officer of the Convention that assembled here four years ago and formed a state constitution...He went to the trouble and expense of presenting that constitution to the proper authorities at Washington...; and I venture to say, gentlemen, that there is no man within the confines of Montana Territory that has done more to forward and hasten statehood than the Hon. W. A. Clark of Silver Bow County."⁷

Mr. Clark's nomination was seconded by Mr. C. R. Middleton of Custer County. His opponent for the presidency of the convention was Mr. L. H. Hershfield of Lewis and Clark County. When the ballots had

⁵Mr. Toole was the first Governor of Montana after it became a state, 1889-93. He was again Governor from 1901-1908.

⁶Proceedings...of Convention, pp. 13-14.

⁷Ibid., pp. 19-20.

been cast, Clark had received 39 and Hershfield 32⁸; Clark was then escorted to the Chair. In appreciation of the honor bestowed upon him, he then addressed the Convention in part as follows:

"I am deeply moved, and grateful beyond expression, for this manifestation of your confidence and respect. I fully realize that to be chosen the presiding officer of a Convention in which there are so many distinguished representatives of the people of Montana, and which has for its purpose the framing of an organic law for the future government of the state, is a rare and distinctive honor, of which any man may justly be proud. I am not unmindful of the grave responsibilities and difficulties incident to the position, and I accept it, relying confidently upon your indulgence and cooperation...there are most solemn and important duties imposed upon us. We are to build a structure that shall exist through the ages to come...It is a work which commends itself to our most serious consideration; a work which challenges the exercise of our best and noblest faculties--a work to which we should bend our best energies, and to which we should subordinate every selfish, personal and partisan consideration, to the end that we may present a constitution that shall be worthy of the State; that shall be acceptable to the people, and that will enable Montana to embrace the golden opportunity now first presented, and which, if neglected, may long be deferred, to take the proud position to which she is entitled in the great sisterhood of states. I thank you, gentlemen, for the honor that you have conferred upon me."⁹

Mr. Clark kept his word and presided in a spirit of fairness, even his enemies conceding as much. Connolly¹⁰ says:

"Clark was...president of the convention which promulgated Montana's constitution. Far abler men took part in its deliberations, but Clark was a good presiding officer and came out of the discussions of that body with honor and credit."¹¹

⁸Ibid., p. 20.

⁹Ibid., p. 21.

¹⁰Mr. C. P. Connolly had first-hand information about the Constitutional Convention. He was its official stenographer.

¹¹Connolly, op. cit., p. 460.

Yet Clark did not just preside. He took part in many of the discussions and deliberations. One may believe that in these, for the most part at least, he was sincere. The very range of his opinions would, to a certain degree, indicate this. In some cases he was an ultra-conservative or even a reactionary; in others he was an out-and-out radical.

When the sections in regard to the establishment of a grand jury were brought forward, Clark immediately spoke very bitterly against it. He had offered an amendment to the section that was to create a grand jury; but his amendment was merely a striking out of several sentences and clauses in the original section as it was reported from the committee. Mr. Clark's very hostility was eloquent, as the following excerpt shows:

"Mr. Burleigh of Custer: I would like to ask the learned gentleman from Silver Bow County if the object of the amendment is to abolish the grand jury entirely, and wipe it from the statute book, or whether it is the intention to leave it to the discretion of the Judge in extreme cases, or such extraordinary cases as may appear to the Court on certain occasions, to select a grand jury to aid the Court?

"Mr. Clark of Silver Bow: ...My object in making this amendment is to abolish, absolutely and forever, the grand jury system in the State of Montana (Applause)...I have had a great deal of experience with the grand jury system in this Territory. For the last twenty years there has scarcely been one year that I have not served on a grand jury in this Territory; and in a great number of the indictments,--I think it would average 60 per cent or more--that have been found by the grand juries upon which I have served, they were either quashed or a nolle entered. I have studied that system carefully. I have seen men go before the grand juries of the counties in which I have lived, actuated by the spirit of revenge to fasten something upon some man against whom they had a grudge. I have witnessed the fact that all the indictments that have been found were upon ex parte evidence, and as I stated, generally arose from matters of personal consideration. And it may grow out of this that any man in

his community, or in this commonwealth, may have a stain fastened upon his name which will last forever, while he is as innocent as a new-born babe upon the subject matter of the indictment. Gentlemen, I consider that it is inquisitorial; that it is founded upon ex parte evidence, and that these matters can be reached by information in every case, and the grand jury system done away with. I consider that it is a relic of the dark ages, that has lingered and clung to the institutions of this country, and that it is time for the citizens of the Nineteenth Century, and the people of Montana who are now about to be clothed with statehood, to rise up in their majesty and relegate it to the dark ages from whence it came (applause).¹²

At this point it is interesting to note that this very institution, the grand jury, against which Clark spoke so vehemently at this time, was used against him ten years later when he was guilty of bribing legislators in a senatorial election. Nevertheless, Clark deserves some commendation for the stand that he took. Later in the day, he again won applause when he spoke of the tendency for veneration of the past:

"I have no disposition, gentlemen, to cling to the memories of the past. I know we are apt to cling with veneration to those forms and customs which have the dust of time upon their brows, and while I am willing to give due credit to those immortal ancestors who framed the Constitution of the United States, we must bear in mind that they lived in an age different from this, that they had just emerged from a monarchical government, and that we have made the progress, of almost a century and we must recollect that they lived at a time and in an age when human slavery was recognized almost all over this country; at a time when a respectable community, a peaceable, intelligent, well-educated community in Massachusetts, directed the burning of people for witchcraft¹³, and I say that we have advanced from that period, and this country has seen a remarkable and wonderful development; and why should it not in these matters which pertain to the judiciary of this country?...¹⁴

¹²Proceedings of the Constitutional Convention, p. 100.

¹³Clark seems to imply that the Salem witchcraft happened about the time of the Constitutional Convention, but actually it happened nearly a century earlier.

¹⁴Ibid., pp. 115-116.

Mr. Clark was defeated on this point in the convention in the final vote¹⁵, even though his speech was a praiseworthy effort.

Other things that Mr. Clark did in the convention were equally interesting. Among some of the framers of the State constitution, there seemed to be an idea that in the absence of a County Superintendent of Schools the duties of that office should be assumed by the County Treasurer. The duties of the two offices are not similar in any respect.

Mr. Clark spoke against any such a combination:

"I believe that the duties of that office [County Superintendent of Schools] require a very competent person, and one would have to devote all of his or her time to the discharge of the duty...the two offices would be inconsistent and incompatible. There are seasons of the year when the County Treasurer has his hands full, for instance the last two or three months of the year when tax gathering time comes around. We know there is a time there for several weeks when the County Treasurer has all that he and his corps of helpers can possibly do. Now, just about that time it might happen that one of these teachers' institutes, which is also very important, would come up, and it certainly would be impossible for the County Treasurer to exercise the duty of County Superintendent of Schools."¹⁶

In the latter period of the convention, the question came up in regard to the permanent location of the capital. As would be expected, Clark spoke in favor of Butte, but first of all he advocated that the question should be decided by the people at an election. On this occasion he spoke at length, and his speech is really of little value, except that it shows appreciation and good fellowship. It also indicates that

¹⁵The grand jury was retained but only to be used at the discretion of the courts.

¹⁶Proceedings of the Constitutional Convention, p. 693.

Clark could be witty on certain occasions when he thought it necessary, and further that he could resort to rather meaningless flowery talk when the situation demanded it. He said in part:

"...I am in favor of submitting the question to the people of this territory whose sovereign right it is to say where the capital shall be placed permanently; this being the fact, the quicker we submit that question to the people of the territory and let them exercise their sovereign will upon this subject, the better (applause). In praise of Helena he said: ...It is a notorious fact that the people of the city of Helena are known all over this country as among the most enterprising, liberal and energetic people to be found in all the western country, or any other part of the United States. (Applause in the galleries.) I have no feeling but kindness for the people of Helena...but I say to you, Mr. Chairman, that there are advantages which may be claimed, that overshadow all...(the other cities), by the magic city of Silver Bow County (applause).

"I recall to my mind a little speech that was made by my intelligent friend from Custer County (Dr. Burleigh), who is generally right on most of the propositions that have been discussed in this convention, when he alluded to a visit he had made recently, or sometime in the last year, to the silver city wherein he was troubled a great deal with the smoke. I believe that the gentleman must have been laboring under a bit of dyspepsia or something of that kind (laughter). It might have been that during the visit of this distinguished gentleman, there had settled over the city by reason of the calmness in the air, which sometimes happens, a little smoke, but I say to the gentleman within the last several months he might have visited there and not have met with this disadvantage or disagreeable feature. The gentleman said that he smelt sulphur over there. He said it was too suggestive of the future. I have no doubt sulphur seems to be suggestive of Sheol, and probably the gentleman from Custer is a little tender upon that subject (laughter). I am reminded to suggest also to this gentleman that I believe that he is an admirer of the ladies, and I must say that the ladies are very fond of this smoky city, as it is sometimes called, because there is just enough arsenic there to give them a beautiful complexion; and that is the reason the ladies of Butte are renowned wherever they go for their beautiful complexions (laughter). I believe this will be urged--because the interests of the ladies are paramount to everything else--as one reason why the capital should be at Butte.

.....

"I...desire to put myself upon record here on these questions and without wishing to detract from Helena or any other place, I consider it my first duty to stand here and claim as I can justly proclaim the advantages of Butte for this temporary location of the capital."

Mr. Burleigh of Custer answered Mr. Clark in like manner:

"I desire to detain the convention only a moment for the purpose of explanation. My friend states that when I was in Butte last year during those positive and noxious exhalations from their furnaces that I was laboring under dyspepsia. I admit that I was not feeling well, and I regret exceedingly that my friend was not there at the time. I was not only laboring under an attack of dyspepsia but of a difficulty of breathing and some nervous prostration, and I have no doubt my friend will sympathize with me in those feelings when I state that it was just after the October election (laughter and applause)."¹⁷

What Clark advocated in regard to the capital was actually done, the people selecting Helena at an election. Clark was destined to play an important part when the selection was made. The October election referred to by Mr. Burleigh was the one in which Clark had been defeated for the office of Territorial Delegate to Congress by Thomas H. Carter.

The topic which caused an acrimonious debate was that concerning the giving of free passes by the railroads to legislators. There was a wide divergence of opinion concerning this held by the members of the convention. Some wished to incorporate into the new constitution the statement that the railroads should be compelled to give passes to the legislators; others took the extreme opposite view, namely, that the railroads should be forbidden to give these passes, and subject to a heavy penalty if they did so. Mr. Clark concurred in this latter view.

¹⁷Ibid., pp. 753-756.

His attitude and his reasoning upon this question were highly commendable. In a speech before the convention he first pointed out that the former constitution of 1884 contained just such a provision, and that no statement in that entire document was more pleasing to the people of the territory than the one concerning the prohibition of free passes. He said in part:

"...I do not wish to put myself in the attitude of being hostile to railroads and other corporations. I know the advantages of these corporations to the people of this state... and I am opposed to throwing any obstructions in the way of provisions in the constitution or in the Legislature that would discourage them in the least; ...but I do not believe that the adoption of this section in the constitution is going in any way to impede the legitimate operation of any of these corporations...This proposition has been discussed in the legislative halls of the nation, and they have come to the conclusion that it is an iniquitous measure for corporations to grant free passes, and they have excluded them. The operations of the Interstate Commerce Law do not extend to...within the limits of the state. It is only in traveling from one state to another that the operation of the national law takes effect...it costs these railroad companies a certain amount of money to transport these people. It is not fair that they should be compelled to do this for nothing. In giving free passes...they will have calculated about the amount of money that they will lose in that way, and they will tax it onto your merchandise, or your freight in the way of ore. Does any gentleman suppose the railroads...are going to give value for nothing? Do you undertake to say that they...extend these passes to members of the Legislatures...without a purpose?...These matters unconsciously have an effect and a bearing upon members of the legislative body when it comes to pass laws which might be inimical to the railroad company...the moment that they give a pass to a man he feels under obligation to the railroad company, and that everything else being equal all questions that come up before the Legislature he will give the benefit of the doubt to the railroad company in all probability, and in many instances there will be considerable stress upon the elasticity of the conscience. I believe in putting men beyond temptation, and I believe we should throw such restrictions about legislation and about judicial departments, and about the public departments of the State of Montana as will tend to preserve the purity of men

in office, and try to avoid if possible any undue influence in legislating upon questions that affect these corporations.¹⁸

As has been said, this attitude of Clark was undoubtedly correct; nevertheless he could have been thinking of himself. He was one of the biggest customers of the railroads at that time in Montana. For the railroads to have given free passes and then raised freight rates to cover the deficit would have cost Clark thousands of dollars every year. A pass to Clark that would save him five or ten dollars occasionally would be almost meaningless, but a raise in the freight rates on ore would take large sums from his profits. Consequently, his attitude is easily understood; yet his argument in regard to the liability of corruption of legislators is reasonable. He also brought out the point that the legislator who receives the pass is likely to be no customer of the railroad at all, or at least paying transportation charges in very small amounts in an indirect fashion, whereas the railroads' best patronizers would receive no consideration of any kind. Such a situation can easily become a petty form of corruption. Neither those in favor of nor those against free passes could make much headway; consequently the Montana Constitution in its final form contained no statement whatever, but was entirely silent on the subject.¹⁹

¹⁸Ibid., pp. 546-547.

¹⁹Several years later the situation was handled from a negative point of view, but nevertheless obtaining the same result. The legislature passed a law providing that railroads could issue passes only to their employees. Before this law went into effect, it was a notorious fact that nearly every legislator carried a free pass.

When the convention took up the subject of the regulation of corporations, Mr. Clark reflected the conservative attitude of big business, which was to be expected. He did not oppose Section 10 of Article XV, which prohibits corporations from giving away stocks and bonds and issuing fictitious increases of stock and indebtedness, but he did oppose an amendment which would have become Section 11, offered by Mr. J. K. Toole. This amendment provided for the individual and personal liability of each stockholder in a corporation for a proportional amount of the indebtedness of the corporation; that is, the proportion that his stock bears to the whole of its capital; also that the directors or trustees of a corporation should be liable for any embezzlement by any officers of the corporation.²⁰ Mr. Clark mustered enough strength to defeat this amendment. In a short speech, he gave certain reasons for his action as follows:

"...if you adopt a provision like this in the Constitution of Montana, you will not only drive all foreign capital invested in the state away, but you would prevent any further inquiries of foreign capital in this country...I believe Montana is as free from wildcat operations...as any other state or territory in the west...it is a great advantage to promoters of legitimate enterprises...to sell their shares in the eastern markets. I think with this provision in the Constitution I undertake to say that the stock would come rolling back to Montana to be sold for whatever they could get for it...what protection has 49% of the stockholders got when the management is entirely out of their hands and in the hands of the persons holding 51% of the stock?...these men may go on operating the business of that corporation and fraudulently absorbing all of its assets, and these innocent stockholders on the outside have no remedy whatever except to rush into the market and sell their stock...I say that if you adopt this principal²¹ you are seeking to embarrass and

²⁰Proceedings of the Constitutional Convention, p. 701.

²¹This word is misspelled in the original text of the Proceedings.

handicap every enterprise in this country which seeks to have its business carried on under the act of incorporation."²²

Clark's objections here probably contain a grain of truth; yet, as a great corporation magnate, he himself did not wish to be restricted or hampered in any way from running his various interests as he saw fit.

Mr. Clark was also hostile to Section 14 of the same article. This section provided for the construction and maintenance of telephone and telegraph lines, under general laws to be provided for by the legislature. It was also designed to prohibit any attempt at monopoly within the State, since it would not permit one company to acquire another, or even to have a controlling interest in another. As soon as the section was read Clark moved to strike it out entirely. A vote was immediately taken after the motion was seconded, but it was adverse to Clark and so declared lost; consequently the provision went into the Constitution.²³

There was some complaint made from time to time by the agricultural element that the mining interests were running the convention to suit themselves. The main reason for this attitude on the part of the farmers was because of the section that passed in regard to the taxation of mines. The section as it went into the constitution did not provide for a tax on the gross output of mines, that is, a tax on all the ore that came from the ground; it merely provided for a surface land tax, which meant that unless there were buildings upon the land the tax levied would be based upon the price paid to the United States Government, a tax

²²Ibid., p. 702.

²³Ibid., p. 711.

upon mining machinery, and a net proceeds tax. The latter provision could easily be evaded--the mining corporations could easily show that there were no net proceeds or profits. This situation was clearly understood by Mr. C. S. Hartman of Gallatin County who made a motion that the word net be stricken out and the word gross substituted. This motion, however, was defeated.²⁴

Shortly after, Mr. Burleigh of Custer County offered a substitute which said nothing at all concerning the taxation of mines, but would have given the legislature entire authority to pass all laws relative to the subject of taxation.²⁵ Before this substitute could be voted on, Mr. Clark made a speech concerning the taxing of mines. He said nothing after the section was read, the brunt of the argument for the mining interests having been borne by Mr. John R. Toole of Deer Lodge County. Clark admitted that he was the representative of the mining industry and that he was in favor of the section just as it came from the committee. Toward the last of his speech he became quite oratorical--for the section to go into the constitution as it was would save Clark millions of dollars in many years to come; consequently he was making a supreme effort. He said in part:

²⁴Ibid., p. 472. In 1924 when Governor Joseph M. Dixon was running for reelection, he carried a check for one dollar, paid to the State of Montana by the Anaconda Copper Mining Company as full payment of the net proceeds tax. This check was shown to audiences all over the state, as Dixon urged them to vote for the initiative measure inaugurating a gross metals mines tax. The measure was passed, but in one of those queer twists of politics Dixon himself was defeated. The daily newspapers of the State, nearly all owned by the A.C.M. Co., probably made this possible. Their daily tirades against him were terrific. See Note 27, page 25.

²⁵Ibid., p. 474.

"...I stand here today as a representative of the mining interests, and I will venture to say that there is no class of men engaged in any industry in this Rocky Mountain country that has a higher regard for integrity or is more disposed to make a fair and equitable return of their property than are the men engaged in the mining industry. They do not propose to evade any of the duties of citizenship; they never have put themselves in an attitude of attempting to evade any of the responsibilities of citizenship in this Territory; but they do contend that the only way to reach a fair and equitable assessment of their values is to base it upon the net proceeds of their mines, in addition to whatever improvements may be found upon the surface thereof...there is no method known...whereby considering all the uncertain circumstances that attend this industry, a fair and equitable value can be placed upon the property they call a mine.

[There is too apt to be] a mistaken judgment in placing a valuation upon a mine...there is another ground for danger. If you allow a mine to be taxed upon what is supposed to be the value of it, you place a weapon in the hands of every assessor in this Territory to levy blackmail upon every man who may have an interest in a mine...The payment of such taxes for one year might bankrupt the mine owner...the fluctuations in the valuations of metals are another fact which will disqualify anyone from placing a proper valuation upon mining property.

"The revenues derived from this net proceeds method of taxation have been entirely satisfactory to many people who heretofore have been opposed to it...The men of the mining industry are men of integrity and honesty and the assessor's returns in the county of Silver Bow will show that they have made a fair and equitable return upon their property.

"So I say to you, gentlemen, to whom it may seem an unfair and unjust discrimination in favor of this industry, that if you study it as we have done, that you will arrive at no other conclusion than that is the only method whereby the state can secure from this species of property a reasonable and just revenue, and at the same time protect those men, those brave pioneers who have come out here and have made the wilderness blossom as the rose, and opened up these great mountains and brought their hidden wealth to light; yea, I say, it is the duty of the members of this convention to throw such safeguards around this industry as are proper and just; this great industry that is the foundation of almost all the prosperity of this country; this industry that has made possible the building of railroads in this country; that has made this city of Helena, of which all Montanans are proud; that has built up the city of Butte and has made all the valleys and mountains of Montana productive.

"I say, gentlemen, let us be cautious how we remove anything from the report of this committee that is going to endanger or jeopardize in any way this great enduring industry upon which our greatest hopes are founded."²⁶

In this speech, Clark was protecting his own property interests rather than talking for an industry. He and Marcus Daly were the only men of consequence that would be affected by this provision. There may have been a few others, but they too were associated with either Clark or Daly. Since Daly was his enemy, Clark was not talking for anyone but himself. Clark would not have objected if Daly had been gouged financially, whether by taxation or some other way. The day of the gold prospector was gone--it had been for over twenty years. Copper mining was the only kind of metal mining in 1889 worth mentioning.

It is impossible to know just how much effect Clark's speech actually had upon the convention; nevertheless, his ideas carried the day, and the section went into the constitution in exactly the manner that he wanted.²⁷

The convention finished its labors on the 17th of August, 1889. There were only two votes cast against it: Thomas F. Courtney, Democrat, a grocer from Butte, and Charles S. Warren, Republican, a mining operator, also from Butte.²⁸ Later on the same afternoon, both men asked

²⁶Ibid., pp. 475-477.

²⁷As has been indicated, this unfair method of taxing mines remained in Montana until 1924, when through the efforts of Governor Jos. M. Dixon, a gross metals mines tax was put to a vote of the people and was carried in the general election, November, 1924. Mr. Clark lived to see this take place. See Note 24, page 23.

²⁸Proceedings of the Constitutional Convention, p. 971.

permission to be allowed to change their votes. Mr. Courtney said that he was not actuated by any antipathy to the instrument, but that since he had voted against certain propositions which the instrument contained, that he wanted to be consistent. He further said that he thought a wrong interpretation might be placed upon his negative vote. Mr. Warren said that he did not want to be the only man opposing the Constitution; that the reason he had voted against it was because it contained many things that he didn't believe in. The convention unanimously permitted them to change their votes.²⁹

As president of the convention, Mr. Clark had served well. The convention duly appreciating his efforts, passed the following resolution offered by Mr. Hershfield of Helena:

"Resolved, that the thanks of this convention be, and they are hereby tendered to the Hon. Wm. A. Clark for the able, faithful and efficient manner in which he has discharged the duties of presiding officer of this convention, and for his uniform courtesy and impartiality, we extend to him our warmest gratitude.

"Resolved, that this convention, in its appreciation of the high character and worth of its president, hereby expresses its sincere wishes for his future health, happiness, and prosperity, and that upon the dissolution of this convention, he will be accompanied by the earnest trust that his highest aspirations may be fulfilled, and his every aim realized."³⁰

After this resolution had been unanimously adopted, Mr. Clark voiced his appreciation for what they had done:

²⁹Ibid., pp. 973-974.

³⁰Ibid., p. 971.

"For the generous and very complimentary resolutions which have been adopted, ...I cannot summon words to fitly express my appreciation and gratitude, and I desire to avail myself of this opportunity to reciprocate the sentiment and to thank the gentlemen of this convention collectively, and each of you personally, as well as the officers and attaches of the convention, for the indulgence, the forbearance, the courteous attention and the kindness which have uniformly and constantly characterized all your actions and relations toward me. [This work] necessarily involved many heated, yet manfully conducted contests, requiring frequent and prompt decisions from the presiding officer. I can point with pleasure and pride to the fact that all these questions have been received and accepted without appeal. This probably unparalleled experience in the history of legislative assemblies in this Territory implies a confidence in the judgment and fairness of the presiding officer, as well as a dignified and respectful consideration, which I heartily appreciate and shall ever remember with grateful pleasure (applause).

.....
 "I trust that each of you may live to enjoy a reasonable fruition of the labors you have performed here, and until the envied yet deserved fame of this magnificent State, our beloved Montana, whose fundamental law you have helped to frame, shall be extended to all the ends of the earth (applause)."³¹

Thus ended the convention which gave Montana her Constitution.

It is quite possible that Clark's service here was the greatest that he ever rendered to his State.

³¹Ibid., p. 972.

CHAPTER III

THE CLARK-DALY FEUD

Long before Clark had taken part in the deliberations of the constitutional convention, he had become the avowed rival and antagonist of Marcus Daly. This rivalry, which grew into enmity, was personal, political, and industrial.¹

Marcus Daly was born in Ireland, December 5, 1841², of rather obscure parentage. At the age of fifteen he came to America. In New York he sold newspapers and later became a messenger boy.³ He saved enough money to go to California but soon went to the silver mines in Nevada where he worked for a while in the famous Comstock lode. Even though he started as a pick-and-shovel worker, it was but a short time until he was regarded as an expert on mining.⁴ Attracting the attention of Walker Brothers, a large firm of mining investors in Salt Lake City, he was sent to Butte as their agent in 1876; where he bought the Alice Mine.⁵ Shortly after this he sold his share for \$30,000, and interested some California capitalists in the possibilities of mining in Butte. It

¹It is interesting to note that there was a remote connection between the Clark and Daly families through marriage. Marcus Daly married Miss Margaret Evans, and James Ross Clark, brother of the Senator, was married to her sister. This situation made no difference whatever in the intensity of the antagonism that existed between the two men.

²Paul C. Phillips, *Sketch of Marcus Daly in Dictionary of American Biography*, V, p. 45.

³Connolly, *op. cit.*, p. 455.

⁴Phillips, *op. cit.*, p. 45.

⁵Connolly, *op. cit.*, p. 457.

was generally believed that after a little silver had been taken out the Butte mines would be of little value, but Daly believed that underneath there was a rich vein of copper ore. His California friends, George Hearst⁶ and James B. Haggin, had confidence in him and consequently helped him purchase the Anaconda mine. Daly's agents then proceeded to buy up all the adjacent mining land as cheaply as possible, which they were able to do because Daly had been shrewd enough to close down the Anaconda mine, and rumors were soon rife that it was of no value.⁷ This was the foundation of Daly's fortune. In twenty years it had been built up to many millions of dollars.⁸

Daly established his huge smelter at the city which he named after his mine, Anaconda, located a few miles west of Butte. He built a railway to connect the mines and the smelter, acquired huge tracts of timber, established banks, and built power plants and irrigation systems.⁹ Connolly describes him as follows:

"Daly was a man of medium height and stocky figure. A splendid, full-rounded head topped a well-knit body. His eye was marvelously clear, and his voice, in conversation, was low and mellow. Although he had had no early educational advantages, no man was shrewder in his every-day intercourse

⁶George F. Hearst was United States Senator from California from 1886 to 1893. He was the husband of Phoebe Hearst, the famous philanthropist, and father of Wm. Randolph Hearst, the famous publisher.

⁷Connolly, op. cit., p. 460.

⁸Phillips, op. cit., p. 45.

⁹Ibid.

with men.¹⁰ He was big-hearted and generous, often assisting many of his older companions by giving them temporary leases on portions of his property. Miles Finlen of Butte made his fortune in this way.

"Daly made it a point to come in continual personal contact with his miners. He always paid them high wages. He would never consent to have them reduced, even though he encountered on many occasions the opposition of some directors in his own company...He argued that good wages made prosperous communities; and the more prosperous the community, the safer his rights and properties were from the assaults of agitators."¹¹

Daly did not seek political office, though his money was used extensively in many political campaigns. He resorted to methods of bribery different from those used by Clark: "Vast sums of money left Daly's purse which he must have known would find their way into questionable channels," says Connolly,

"but if he ever bribed men in high places, the fact never became public property, nor were such things even whispered, much less openly alluded to in the public press. Daly's popularity among the miners and business men of those sections of the State in which his vast interests lay, obviated the necessity of expending large sums of money to secure their political support."¹² ...Daly was ambitious

¹⁰Daly's Irish wit showed to great advantage upon many occasions, and partially at least explains his popularity and the admiration in which he was held. A story was told of his once being on the witness-stand under the cross-examining fire of a legal representative of the Northern Pacific Railroad. "Where do you live?" was the first question sharply asked. "I have a residence at Anaconda and one at Hamilton," replied Daly. "Well," impatiently queried the lawyer, "where do you spend most of your time?" Quick as a flash came the answer, "At Garri-son, waiting for Northern Pacific trains."

¹¹Connolly, op. cit., pp. 453-459. This account is highly favorable to Daly in every respect.

¹²It can be noticed in the above account that Connolly constantly makes excuses for Daly.

for the satisfying things that go with political power--the power to assist others politically, to win the gratitude of men for favors conferred, and to draw the good-will that goes out to the man who, though he has influence, has no ambition for office.

"I admire the men...who have made public affairs a study and are equipped by early training for those duties," said Daly. "I know my shortcomings. In the Senate, I would be out of my element."¹³

Such was the man who became the powerful antagonist of Clark. The two men were friends in the early days when Daly first came to Butte, but their struggle for control of the copper mines made them bitter enemies.¹⁴ Connolly gives a story concerning the origin of the feud between these two men. If this story is true, most of the blame must fall on Clark:

"Probably the first event of any importance in this feud occurred in the late '70's. Daly was managing the Alice mine for the Walker Brothers of Salt Lake City. Clark, without request and without excuse, save the fact that the Walker Brothers were neighboring bankers, wrote them a letter, saying that Daly's management of the Alice was extravagant and unbusinesslike. The Walker Brothers promptly remailed the letter to Daly.

"After Daly had secured the cooperation of Haggin, Hearst, and Tevis for the development of the Anaconda, Clark opened a correspondence with James B. Haggin, in which he used every stratagem to discredit Daly. The only result was that Haggin loosened his purse strings the more, and Daly was finally given carte blanche.

"There is no question that Clark made it a practice to refer to Daly slightingly, ridiculing his uncouthness and explaining his discovery of the Butte hill as an accident. These remarks were foolishly carried to Daly."¹⁵

¹³Connolly, op. cit., p. 455.

¹⁴Phillips, op. cit., p. 45.

¹⁵Connolly, op. cit., p. 460.

In politics both men belonged to the Democratic party and, as a result, each fought for the control of that party in Montana. Each built up a political machine composed of his own employees and business men who were dependent on him.¹⁶

The first opportunity Daly had to take the measure of Clark and insure his political defeat was in 1888, the year before Montana was admitted to the union. Clark's wealth made the nominating conventions of his party eager to encourage his candidacy for any office, and consequently the convention of 1888 nominated him for Territorial Delegate in Congress. At a meeting of prominent Democrats at Helena, according to Connolly, Daly promised that he would support Clark at the general election. The latter's success then seemed a foregone conclusion¹⁷, but events proved otherwise.

For this office the Republicans nominated Thomas H. Carter¹⁸, a young lawyer who was able, shrewd, and clever. This young man was practically unknown to Daly, yet Daly supported him, though not openly. When the votes had been counted, it was found that Carter had beaten Clark by over 5,000 majority. Clark's defeat was as complete as it was humiliating; even his own ward in Butte repudiated him and Anaconda and other precincts known to be Daly strongholds gave Carter tremendous majorities.¹⁹ After Montana was admitted as a State Carter was elected

¹⁶Phillips, op. cit., p. 45.

¹⁷Connolly, op. cit., p. 460.

¹⁸Carter was afterward United States Senator for two terms, 1895-1901 and 1905-1911.

¹⁹Connolly, op. cit., p. 460.

to succeed himself, this time as a full-fledged member of the House.

The election of the two Senators did not come about so easily.

Senators at this time were elected by State legislatures²⁰, but in 1889 Montana had two legislatures! This happened because of election difficulties in Silver Bow County. The canvassing board had thrown out the vote of precinct No. 34 as fraudulent. The State board, following the action of the local board, announced the election result without this precinct, which gave the victory to the five Republican candidates for the legislature from Silver Bow County. Had this precinct been counted, the Democratic candidates would have been elected. These five individuals held the balance of power between the two parties in the legislature. This was extremely important since these five votes would determine whether the new State would have for its first Senators two Democrats or two Republicans. Both groups of candidates from Silver Bow County presented themselves to take their seats in the legislature. The Democrats, under a previous ruling, had certificates of election from the clerk and recorder of Silver Bow County; the Republicans possessed certificates of election from the State canvassing board. Here was a real deadlock; neither side would give in, and both sides had refused to compromise at various times when a suggestion had come from their antagonists. Each party then effected an organization, met in different places, and claimed to be the Legislature of Montana; and each so-called

²⁰It was not until 1913 when the 17th Amendment to the Constitution was ratified that senators were elected directly by a vote of the people.

Legislature elected two United States Senators.²¹

The Democrats selected William A. Clark and Martin Maginnis, and the Republicans, T. C. Power and Wilbur F. Sanders. At this time the Presidency and both Houses of the National Congress were controlled by the Republicans. Consequently Mr. Sanders and Mr. Power were seated. The report of the committee reasoned that the Republicans had been elected in Silver Bow County, since they had certificates from the State canvassing board.

Four years later, in 1893, Clark made his second attempt to be elected to the United States Senate, Senator Sanders' term having expired. The Democrats had a majority in the Legislature, but the Clark-Daly feud was as bitter as ever. William W. Dixon was the candidate of the Daly forces. The Republicans were hopelessly in the minority. They had set aside Colonel Sanders for they believed that he could not be re-elected, and voted for Lee Mantle instead. This did them no good, however.²²

Considerable bribery and corruption were used in this campaign by both sides. Connolly says that, in several cases where Clark had bought up legislators, the Daly forces paid a like amount to buy back their allegiance or to get them to leave the State.²³ On the first few ballots

²¹The entire story of this long controversy is told in Sanders, History of Montana, I, pp. 403-410 inclusive.

²²See Appendix II for short sketches of Martin Maginnis, T. C. Power, Wilbur F. Sanders, Wm. W. Dixon, and Lee Mantle.

²³Connolly, op. cit., p. 461.

a few Republicans were found voting for Clark. As a result a Republican caucus was hastily called, and these deserters were treated rather roughly. Even though this caused a temporary drop in the Clark vote, he claimed that his forces were ready for concerted action and he would be elected. As the session drew to a close, the excitement in Helena was intense. When the final vote was taken, it was found that six Republicans had voted for Clark, together with one Democrat who had been a former Daly supporter. This Democrat, one Bonner of Granite County, also made a speech in favor of Clark, this speech and his vote having been purchased at \$20,000, according to the Clark faction.²⁴ On this final ballot Clark was three votes short of election. To say that he was disappointed is to put it mildly. He sat in the front row of seats, just under the presiding officer, ready with the manuscript of his speech of acceptance, so certain was he of election.²⁵

Shortly after the vote was announced, State Senator E. D. Matts of Deer Lodge County rose and made an eloquent and denunciatory speech against Clark and his methods, referring to what he called Clark's "notorious bribery."²⁶ During the speech Clark sat bowed and broken at his failure and apparently unconscious of the words of the speaker or of the scene about him. "I want to see no man representing this State in the Senate," shouted Matts, pointing his finger at Clark, "who obtains

²⁴Connolly, op. cit., pp. 461-462.

²⁵Ibid., p. 462.

²⁶Ibid., p. 463.

votes by force or fraud. I want to see a man elected to the United States Senate who is not tainted by fraud, bribery, and corruption." At the end of his speech Matts moved the final adjournment of the joint session, and the motion was carried.²⁷ As a result of this hasty adjournment without having elected a Senator, Montana for the next two years, or until 1895, had only one representative in the Upper House.²⁸ Governor Rickards appointed Mr. Lee Mantle to fill the vacancy, but the Senate refused to seat him. It was six years before Clark again attempted to be elected Senator, and in the meantime the great fight over the capital had taken place.

In May, 1864, Sidney Edgerton, the first territorial governor of Montana, fixed the capital at Bannock. In January, 1865, it was removed to Virginia City, because of an act passed by the territorial legislature. Here it remained for nine years, when it was removed to Helena by a plebescite of the people of the territory.

The constitutional convention did not name any city for the permanent capital of the new State since there were several aspirants for the honor; consequently the constitution as ratified contained the following provision:

²⁷ Ibid., p. 463.

²⁸ Connolly is in error here, when he says that "Montana was without representation in the United States Senate for four years." Op. cit., p. 463. The one Senator was T. C. Power of Helena. Lee Mantle was overwhelmingly elected in 1895, by a Republican legislature, for the remaining four years of the term. Robert G. Raymer, History of Montana, (3 Vols., Chicago, The Lewis Publishing Co., 1930), I, p. 372.

"At the general election in the year 1892, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the State, and the majority of the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be and is hereby submitted in like manner to the qualified electors at the next general election thereafter."²⁹

As a result of this provision seven cities entered the lists in the election of 1892. They were Helena, Anaconda, Butte, Bozeman, Great Falls, Deer Lodge, and Boulder. In the first election no city received a majority, so a second election was necessary two years later between Helena and Anaconda, since they were first and second respectively. Anaconda was the home of Marcus Daly's great industrial organization, the Anaconda Copper Mining Company, with its allied interests and concerns. Daly, thrilled with the sense of his power, wished to reach out and bring the capital to the town which he had been instrumental in building. But for Clark he might have won.³⁰ Yet Clark took no active part in the early stages of the campaign but instead remained quietly at home.

The year before, 1893, Clark had made a deal with Ex-Governor Samuel T. Hauser, who was a prominent Democratic candidate for the Senate. Hauser had withdrawn in favor of Clark, after the latter had promised to support Helena in the coming capital fight. At first, however, Clark did not fulfill his part of the bargain. Instead he made overtures to Daly

²⁹ Montana Constitution, Article X, Section II; see also Sections III and IV, quoted by Sanders, History of Montana, I, pp. 413-414.

³⁰ Connolly, op. cit., p. 464.

in the endeavor to strike another bargain with him. All through the summer he angled for Daly's support in the next Senatorial contest, and in exchange Clark would have agreed to cooperate with Daly in the capital fight.³¹ Daly, however, would come to no such compromise. He was not in favor of sending Clark to the Senate under any circumstance. When Clark was finally convinced that all his olive-branch overtures were unsuccessful, he came into the open as Helena's avowed champion.

The fight then became the most spectacular and bitter ever witnessed in the West. Millions of dollars were spent. The actual cost to Daly was enormous. John R. Toole admitted before a grand jury at Helena that Daly had spent over half a million; Governor Hauser alleged before a senatorial committee in Washington that it was over a million; this cash sum, together with many leases granted by Daly to his loyal supporters, probably boosts the grand total to two and a half millions. Clark must have spent not less than \$400,000.³² Since there were approximately 53,000 votes cast in the election, this tremendous cost would mean that each vote cost somewhere near \$55.³³

The Helena Capital Committee, realizing the personal popularity of Marcus Daly, ignored him and attacked James B. Haggin, Daly's principal business partner, who was a man of the quiet, skull-cap order, about whom little was known except that he was rich, powerful, and

³¹Connolly, op. cit., p. 464.

³²Ibid., p. 465.

³³Connolly gives the figure as being \$53 per vote.

taciturn, and therefore easily a mark for public execration. Haggin was accredited with a controlling interest in the Homestake mining enterprises of the Black Hills. The Helena committee gathered into effective campaign material every act of that corporation hostile to the public good, and eloquently pictured these oppressions as the future heritage of Montana in the event that corporate influences should cap the dome of its State house.³⁴

The editorials in Clark's Butte paper, The Miner, were also very effective. John M. Quinn, an editorial writer of dash and power, was then editor of The Miner. His editorials were striking in their forcefulness and clarity. There were thousands of voters who were not venal and who were not unfriendly to Daly, who yet hesitated to place the keeping of the great seal of the State in the possession of any corporation; and these the arguments of Clark's newspaper reached and converted. These men came out into the open and fought, not for Clark, nor against Daly, but for the integrity of the State itself.³⁵ This meant that the balance of power of the floating voter, or the voter who was interested only indirectly, was given to Helena, and this was enough to permit Helena to win. The vote was very close, however, Helena receiving 27,024 votes to Anaconda's 25,118, giving the former a majority of 1,906. Since this vote was so close, it was several days after the election before the actual result was known.³⁶

³⁴Ibid., p. 464.

³⁵Ibid., p. 465.

³⁶Sanders, op. cit., I, p. 414.

Anaconda had depended upon getting about 70 per cent of the vote of Silver Bow County. It received about 62 per cent. The actual figures for Silver Bow County were: Anaconda, 6,513; Helena, 4,003; but had it secured 70 per cent it would not have changed the result.³⁷

After the fight was won, Helena sent for Clark and Quinn³⁸ and gave them the most royal ovation ever seen in the West. They unharnessed the horses from the carriage and hauled their heroes through the streets amid a carnival of fireworks that illuminated the mountain passes ten miles away. They placed the mock body of Daly, clad in funeral garments, in an improvised catafalque and jeered it through the streets--an insult Daly never forgot.³⁹

³⁷Ibid., p. 414.

³⁸John M. Quinn was exceedingly popular in Helena. At this ovation Clark and Quinn rode in the same open carriage. Clark was averse to this arrangement as he wished to ride in the carriage entirely alone. During the shouting as the carriage moved slowly along, Clark noticed that Quinn's name was shouted more than his own. This was too much for Clark's vanity--he would play second fiddle to no one. The jealousy soon came to fruition when Quinn was discharged from his position on The Miner. After this Quinn went to New York, where he became one of the political orators and writers affiliated with Tammany Hall. He was very successful in this, but later gave it up to become a temperance lecturer.

³⁹Connolly, op. cit., p. 465.

CHAPTER IV

CLARK'S DECISION TO BE A CANDIDATE IN 1899; HIS HENCHMEN

It will be remembered that Clark's first great defeat came in the spring of 1893 when he fell three votes short of obtaining the coveted senatorship. After the capital fight, as described in the last chapter, Clark retired from active political affairs until 1898.¹ He shrank from another struggle for the senatorship. The cost of campaigning in Montana was very distasteful to him.

"He is a close business man," said former Governor Hauser²,

"...and he doesn't like to 'let-go.' He usually wanted to know how much money he would have to put up before he went into the race. I told him instead of spending his money on pictures and palaces, he ought to spend it in Montana, where he made it."³

Clark well knew that Marcus Daly would never permit him to become a United States Senator if there was any way to prevent it. Clark also knew that Daly would spend enormous sums gladly in just such a contest,

¹When State Senator Hoffman of Gallatin County was asked at the senatorial investigation (1899-1900) if he had been a supporter of Clark since 1893, he bluntly answered, "I haven't known of anything to support him for. He hasn't run for anything until this time." Report of Committee on Privileges and Elections of U. S. Senate on the Right of Wm. A. Clark to a Seat in the Senate, First Session, 56th Congress, 1899-1900, (Washington, 1900), Part II, p. 1559. Hereafter cited as Senate Report.

²Samuel T. Hauser was territorial governor of Montana during Cleveland's first administration.

³Senate Report, Hauser's Testimony, Part II, pp. 1400-3. Quoted in Connolly's article in editorial comment, McClune's Magazine, Oct. 1906, pp. 631-2.

which of course could only mean that Clark would also have to spend as much or even more if he were to attain his ambition.

Even though Daly had been defeated in the capital fight, he scored a significant victory in the next State Democratic Convention, 1896, when all of Clark's candidates for office were defeated. Two years later Clark's following in the Silver Bow County Democratic Convention had dwindled to five delegates. This meant that everyone of the thirteen nominees for the State Legislature was an anti-Clark man. He therefore formed an open alliance with the Republican party and made a bitter fight against the whole Democratic ticket in his own county of Silver Bow.⁴

This was not an auspicious start for a Democrat who aspired to election as United States Senator. Clark was skeptical. He knew that his powerful enemies would give no quarter and would ask for none. He had seen them determined before--and he had lost. With such a trouncing, even Marcus Daly did not believe that Clark would enter the race. In a conversation with Frank Corbett⁵, Daly voiced this view. He said:

"I don't think Mr. Clark will be a candidate. I don't think he will have anything to do with it. He was hopelessly defeated at the polls. He hasn't got a single vote from his own county, and it would mean wholesale bribery, and I don't think Clark would want to go into that."⁶

⁴Ibid.

⁵Frank Corbett was a young lawyer and a tireless worker in the interests of Clark. See page 53 of this thesis.

⁶Senate Report, Daly's Testimony, Part III, p. 2206.

In another conversation that Daly had with T. P. Cullen, according to the latter, Daly was even more vociferous. Cullen, who had recently been elected to the legislature, was a passenger conductor on the Northern Pacific railroad. One day in December, 1898, when Daly was one of his passengers they entered into conversation about the approaching senatorial election. Daly asked Cullen if he were going to vote for Clark and Cullen answered in the affirmative. Daly then said that "he could tell him right there that every man who voted for Mr. Clark would be published as a boodler and a bribe taker."⁷ Daly vigorously denied that he went that far, however. He said, "...I am almost positive that I would not say that at that State election. It would be insane, and I never was accused of that."⁸

Clark needed considerable urging to "throw his hat in the ring." Ex-Governor Hauser⁹ had some long conversations with him, doing everything he could to persuade him to enter the fight. But Clark had doubts. Former contests had only brought defeats and much unpleasantness, as well as being extremely expensive. He was concerned as to what this one would cost. Hauser told him that he should help in the county caucuses up to about \$35,000 or \$40,000, and then it would probably require from \$40,000

⁷Ibid., Part II, p. 1237; also Part III, p. 2207.

⁸Ibid., Part III, p. 2224.

⁹Before the State Capital fight Hauser had been very definitely a follower of Marcus Daly; but when Clark threw his support to Helena, Hauser became an out-and-out Clark partisan.

to \$60,000 afterward for legitimate campaign expenses.¹⁰ Clark had about made up his mind to give it up, but Hauser advised him to send for his confidential friends and lay the matter before them, since he (Hauser) had already outlined a campaign. Clark agreed to this. He called in William McDermott, Congressman Albert J. Campbell, A. J. Davidson, and Walter Cooper as personal, confidential friends who would honestly advise him regarding Hauser's plan, and to act as a sort of a committee. Two weeks later Clark decided to run. During this time the State had been fairly well canvassed to see just what was the sentiment of the people, and especially the members of the legislature. It was the belief of this group of men that, after the votes had been cast for county favorites, Clark could be elected. Hauser pointed out that the majority of the legislature was anti-Daly, that Daly could not control over 26 or 27 votes out of the total 94¹¹, and that a majority of the Democrats alone were in favor of Clark. Later, when on the witness stand, Hauser pleaded lack of knowledge of details when asked why it took so long to elect Clark if there was so much sentiment in his favor.¹²

No doubt Hauser was optimistic. The Daly men even without Daly's personal leadership were firm and grim, and resolved that Clark was

¹⁰Senate Report, Hauser's Testimony, Part II, p. 1403. See also Clark's Testimony, Part III, p. 1835. Clark mentions a possible total of \$105,000.

¹¹Ibid., pp. 1402-8. Hauser was correct as to the total, but there were only 93 votes cast in the last two ballots for Senator. Representative R. M. Sands of Choteau County was absent when the last two ballots were cast.

¹²Ibid.

never to be elected. A typical example of this was Senator E. D. Matts of Deer Lodge County¹³ who had been in the legislature four years before. In a conversation with Senator Hoffman, Matts spoke vehemently. When asked about Clark's becoming a candidate for the Senate, Matts said, "He will never get there; we will run [him] out of the State."¹⁴ Apparently Clark's enemies were good haters, just as his friends, in the main, were loyal workers.

The one man who did not remain loyal was Congressman Albert J. Campbell; he had been one of the original committee. In two separate conversations, Campbell told why he left the Clark camp. About September 1, 1898, he spoke to E. C. Day¹⁵ of Helena, a Clark partisan. Of this conversation, Campbell said:

"We talked over the political situation, and I believe I told him that I thought I would not have anything more to do with politics; that I had made up my mind that I did not want to enter a controversy of this kind and I thought I would keep out of it."¹⁶

In a later conversation with William McDermott/^{16a}Campbell claimed he said, "...I did not care to enter into a boodle campaign, which I had made up

¹³Connolly erroneously said Matts was from Missoula County.

¹⁴Senate Report, Part II, pp. 1558-9.

¹⁵Edward C. Day, a Helena lawyer, was a representative from Lewis and Clark County. The Clark faction supported him for Speaker of the House, but he was beaten by Henry C. Stiff, the candidate of the Daly faction.

¹⁶Senate Report, Campbell's testimony, Part III, p. 2366.

^{16a}For more about William McDermott see pages 49, 71, and 89.

my mind that was to be. I did not care to enter into it."¹⁷

While Campbell worked with Clark's committee, he made several trips around the State to look over political conditions and made reports on his findings to Charles W. Clark, the Senator's son. This information was useful to him afterward when he became a violent Daly partisan. Campbell acted as an attorney in the prosecution of Clark before the Senatorial Investigating Committee. His methods were often questionable and were criticised by some of the Senators on the committee. Fred Whiteside¹⁸ went to him for advice on what to do in case of a bribery exposure, and Campbell gave him careful instructions.

Campbell claimed that the Clark forces charged him with being guilty of conspiracy in putting up money to encompass Mr. Clark's defeat. Concerning this he said:

"As soon as they started that cry, I went back to Helena and told Mr. Cooper that they had seen fit to make an attack upon me and charge me with being guilty of conspiracy, and that I was going to make the best fight I could, and would stay in it until the finish."¹⁹

The other members of the Clark committee were loyal. Just before the legislature was to meet, Clark took his headquarters in the Helena Hotel and here he held his conferences. Connolly points out that Clark

¹⁷Senate Report, Campbell's Testimony, Part III, p. 2367.

¹⁸Fred Whiteside of Kalispell had previously served one term in the State legislature. In 1898, he was elected to the State Senate from Flathead County.

¹⁹Senate Report, Campbell's Testimony, p. 2369. The Mr. Cooper referred to is Walter Cooper of Bozeman, a Clark partisan. More about him on page 51.

determined quite early upon the use of huge sums of money. Some of his statements are open to question, but he says quite bluntly:

"Immediately after the popular election in the fall, Clark has made up his mind to buy his way into the United States Senate, and his plans were carefully laid. He had subsidized most of the newspapers in the State and many of the press correspondents at the capital. Scarcely a line could reach the outside world that was not subject to his censorship."²⁰

This is probably exaggerated. We have seen that Clark was rather reluctant to be a candidate, that he needed a certain amount of urging, and that he was rather dubious about the cost. The censorship of the press was largely untrue. Clark's paper, The Butte Miner, printed only material in his favor; but The Anaconda Standard, owned by Daly and his company, printed vituperous statements about Clark on every possible occasion. This was to be expected.

As soon as Clark had established his own headquarters, he provided rooms in the same hotel, just across the hall, for his son Charles and his principal legal advisor, John B. Wellcome. A word or two of explanation must be given about several of the trusted lieutenants of Mr. Clark.

Probably the central figure of this entire group was the Senator's son Charles. Connolly describes him as...

"then a young man of twenty-six, a graduate of one of the great Eastern universities.²¹ He was tall and thin, with a striking pallor of countenance and a manner somewhat

²⁰Connolly, op. cit., p. 631.

²¹Charles Clark graduated from Yale in 1893.

effeminate. He had inherited a certain political sagacity, had wide experience in the uses to which money might be put, and was largely responsible for the ultimate success of the plan to debauch the legislature. 'We will send the old man to the Senate or the poorhouse,' was his way of stating it."²²

John B. Wellcome, Clark's principal fogle man at Helena, was also his leading Western counsel. He was a good lawyer and a man of likable personality, generous and good-natured, and completely wrapped up in Clark's success. He had friends everywhere and had many among the Daly following.²³ He had never been prominent in politics, but was looked upon as the advisor whom Clark most frequently consulted in legal matters. He was mild and affable, shrewd but uncritical. Ordinarily judicious, he became in his dealings with members of the legislature thoroughly reckless.²⁴

Besides these two there were many other tireless Clark workers. Walter M. Bickford of Missoula County was one of the most active agents in the purchasing of votes from the legislators. Connolly says of him:

"He was a 'shyster' lawyer, but because of his lack of conscience and numbed sense of honesty, he was employed as

²²Connolly, op. cit., p. 632.

²³There was practically no one who did not have a good word for Wellcome. His later disbarment for his part in the bribery was looked upon as the saddest of all the incidents in connection with the exposure. Many felt that Wellcome became "the goat," since vengeance had to be wreaked upon someone, and that Clark did not stand by Wellcome as he should have. Wellcome was so good-natured that he often made foolish and even reckless statements that would be incriminating if proved in a court room. For instance he once stated they expected to pay every man that voted for Clark, and any man that didn't accept the money if it was coming to him was a fool. His sole idea was that he wanted everybody to get a little financial aid since it might be the beginning of an easier life.

²⁴Ibid., p. 632.

a member of Clark's legal staff. In 1896 he had been a member of the corrupt Capital Commission. Upon investigation, this commission all resigned except Bickford, who was deposed by the governor of the State."²⁵

John S. M. Neill, the owner of the Helena Independent, was a staunch follower of Clark. He condoned Clark's methods and had an unsavory reputation for the part he played all during the session. He was generally regarded as being the most dishonest of all of the Clark faction. His newspaper was as much a Clark organ as was Clark's own Butte Miner.

William McDermott had been active in Montana politics for several years. He was a resident of Butte for about twenty-five years, but at the time of the Senate investigation he was living at Salt Lake City. He had been a member of various city and county committees and was for a long time definitely identified with the anti-Daly wing of the Democratic party. He had been an alderman and a United States marshall for four years each and had served one term as a State senator. He admitted that he received \$21,000 or \$22,000 to pay for election indebtedness, and that he did everything that he possibly could to influence the members of the legislature to vote for Mr. Clark.²⁶

A. J. Davidson was a merchant and stock-grower who lived at Helena. He had known Senator Clark for thirty-five years prior to the election of 1899 and had supported him in his many and varied campaigns. Davidson was always in the midst of political activity. He had been a member of

²⁵Ibid., p. 633.

²⁶Senate Report, McDermott's Testimony, Part II, pp. 1603-8.

numerous campaign committees, had served in the third legislative assembly of Montana, and had been a delegate to the Democratic National Convention in 1894 (?).²⁷ He was a sort of a disbursing agent for the Clark faction, large sums of money passing through his hands.²⁸ He admitted that he spent over \$22,000 in nine counties.²⁹

Alexander J. Steele was a real estate man and contractor who lived in Helena. During the periods of the legislative session he had his headquarters in a suite of rooms in the Power Block. He had rented these rooms for political purposes. Steele claimed he was not a member of any particular committee, and that he merely worked more or less on his own accord but in conjunction with Clark's other supporters.³⁰ Steele and Davidson worked together in the suite of rooms to influence members of the legislature for various sums of money to vote for Clark. Steele was very particular about the rooms that he rented. He took those at the Power Block because they had three entrances (or exits) and contained a vault.³¹

²⁷Ibid., Davidson's Testimony, Part II, p. 1410. Davidson is evidently in error here as 1894 was not a presidential election year.

²⁸Ibid., p. 1411.

²⁹Ibid., p. 1433.

³⁰Ibid., Steele's Testimony, pp. 1434 and 1444.

³¹Ibid., Rector's Testimony, Part II, p. 578. Steele also testified concerning the vault. He denied that he told Rector to find him a room with two or three entrances, or with a vault. He admitted, however, that in the rooms he selected there was a vault, but said he didn't have the combination nor did he know who did have it. See Steele's testimony, p. 1435.

Walter Cooper was a resident of Bozeman who was engaged in the milling business and was also interested in coal and quartz mining. He had been active in politics for a long period and had been a friend of Senator Clark for over thirty years. He attended the meeting in Butte for the purpose of discussing, as he said,

"the practicability of organizing the State politically and to see if...they could not break the control of the Anaconda Copper Mining Company, which practically controlled the State...."³²

Cooper was assigned the job of "looking after" the seven counties in southern and eastern Montana. His work was to sound out the newly elected members of the legislature and bring them in line if possible for Senator Clark.

A. B. Cook³³ was a railroad contractor and coal mine owner who lived at Helena. He was State auditor of Montana for four years, having

³²Ibid., Cooper's Testimony, Part III, p. 1692. Cooper admitted that within a year of the election he had "borrowed" from Senator Clark over \$8,000. He said that Clark had never asked him either for the principal or interest, although the latter was past due. Clark would lend him money, he pointed out, when the banks would not. Cooper's appearance on the witness stand was not impressive. Among other things, he admitted that a judgment for \$17,000 was rendered against him on some old debts, which he settled for \$7,500. This would appear that Cooper was insolvent, but he vehemently declared that he was not which was probably true, since he owned considerable real estate. See pages 1712 ff., his testimony.

³³In 1928 Mr. Cook again entered the political limelight. He was still nominally a Republican and against the Anaconda Copper Mining Company. In this year he actively supported the Republican gubernatorial candidate, Wellington D. Rankin, as against the Democrat John E. Erickson, the "company's" candidate. Cook owned at this time one of the finest herds of cattle in the Northwest, but they were heavily mortgaged to a Helena bank. Because of Cook's political activity, the mortgage was foreclosed and the splendid herd was sold at a sheriff's sale. The money received from the sale satisfied the mortgage, but it did not prevent a lawsuit. Cook died shortly after.

been elected in 1892 on the Republican ticket. Even though he was a Republican, he worked for Clark all during the legislative session. His main activity was the attempt to negotiate for the vote of the Speaker of the House, Henry C. Stiff, offering him \$20,000 if he would support Clark.³⁴

William F. Rector was a public accountant who resided in Helena. It would seem from his testimony that he was a sort of an errand boy for Mr. Davidson and Mr. Steele. It was Rector who negotiated for the rooms in the Power Block and rented the furniture for them. Rector told a good many things on the witness stand. He was "crossed-up" many times by the lawyers, but his testimony is quite interesting. He told how Steele, who was Secretary of the Home Building Association, had been appointed receiver of the Montana Loan and Savings Union; that Steele was in default to the amount of \$600; and that he was very glad when Davidson brought some money over from Butte so that the amount could be paid, because Steele had a bad reputation in Helena anyway. Rector also told about the sign he had placed over the Power Block suite--it read: "The Cross-Cut Gold Mining Company." He thought that that was a fine joke since some of the legislators would collect the money there for voting for Clark. Mr. Wellcome, however, didn't approve of that sign so tore it off and threw it out the window.³⁵ It is quite likely that Rector was

³⁴Senate Report, Stiff's Testimony, Part I, p. 52. Cook denied this. See Cook's testimony, Part III, pp. 1188 ff.

³⁵Senate Report, Rector's Testimony, Part II, pp. 577 ff.

regarded by the other Clark lieutenants as rather insignificant, and it is extremely improbable that he ever received much money. On one occasion he was ordered to watch the grand jury and was deeply grateful for the \$50 he received for this unpleasant task.³⁶

Frank E. Corbett was a young lawyer who came to Butte to live in 1887. He soon became a law partner of John B. Wellcome and later was Clark's principal Western counsel.³⁷ A brilliant, interesting, and attractive young man, he had graduated with high honors at Washington and Lee University in Virginia. Connolly states that,

"The older lawyers of the State liked his dash and energy and were attracted by his youth and winning personal qualities. He formed many strong friendships among them. Corbett's undoubted promise, his gradual demoralization under the feverish life of Butte, and his early death--brought on by sheer exhaustion and overexertion in Clark's service--make him undoubtedly the most tragic figure of this entire story."³⁸

Later, in the hope of preventing Wellcome from being disbarred, he was unfortunately concerned in an attempt to bribe the Supreme Court, an act for which the Justices were more inclined to pity, than to censure, him.

There were many other Clark partisans who were used in this election: Dr. E. L. P. Ector, a dentist of Stevensville, was used upon one occasion, as was Dr. William Treacy, a physician of Helena, upon another. During the period when the Legislature was in session Helena

³⁶Ibid., p. 585.

³⁷Ibid., Corbett's Testimony, Part II, p. 1392.

³⁸Connolly, op. cit., p. 301.

was filled with henchmen, go-betweens, heelers, watchmen, and even thugs, who were always on the watch to look after Clark's interests; but these were relatively unimportant. Of this latter class Benjamin Hill was the most noteworthy. He was a big burly fellow who had killed a man at Granite some years before.³⁹

³⁹Ibid., p. 634.

CHAPTER V

THE WHITESIDE EPISODE

The Legislature opened on January 2, 1899. On the evening before, the first clash between the Clark and anti-Clark factions had taken place over the selection of the Speaker of the House. The Clark candidate was E. C. Day of Helena. The Capital City was very much in favor of Clark for the Senate because of his previous aid in the capital fight. Day denounced bribery but supported Clark all through the session. The anti-Clark faction decided upon Henry C. Stiff, a Missoula attorney. Stiff easily won the Speakership, which meant a serious setback to the Clark forces in their first skirmish.¹

The balloting for Senator was not to start until January 10, which gave the Clark lieutenants eight days to work. And they were not idle! The very air of Helena quivered with intrigue, plots, and counterplots. Rumors and gossip were running wild. Everyone was talking bribery, and it was heard many times that Clark would spend \$1,000,000 to win the Senate seat² should it prove to be necessary.

On the evening of January 8, the Clark leaders gave a banquet.³ It was a gay evening of feasting, drinking, and speech-making. Everyone was in the best of humor, and some were even hilarious. It was announced

¹The vote was 30 for Stiff, 25 for Day, and 15 not voting. Connolly, op. cit., p. 632.

²Ibid.

³Ibid.

that Clark would be elected on the first ballot--that fifty-four votes had been secured, or seven more than a majority. Little did they suspect, however, that a bombshell would explode the very next day! The Senator from Flathead County, Fred Whiteside, had already determined to expose the bribery.

Fred Whiteside at this time was thirty-six years of age and was living on a ranch about one mile west of Kalispell.⁴ He had lived in various places in Montana for twenty years and had always taken an active interest in politics. In 1896, he had been instrumental in the exposure of the corrupt Capital Commission and the deposing of Walter M. Bickford.⁵ He had proved himself a foe of all jobbery and corruption. To aid him in the exposé, Whiteside selected two State senators, Henry L. Myers⁶ of Ravalli

⁴Senate Report, Whiteside's Testimony, Part I, p. 89.

⁵Fred Whiteside was a liberal Democrat and a keen student of politics and economics up to the time of his death about 1935. The author heard him make an address in 1931 at Belgrade, Montana, upon national issues. At that time he wrote an account of his part in the exposure of the bribery. He claimed that he was offered \$250,000 not to make the exposé. This manuscript was given to the author's father-in-law, Sam J. Hampton of Belgrade.

⁶Henry L. Myers was rewarded by the people of Montana for his honesty and his part in the exposé by two terms in the United States Senate. He was first elected in 1910 and reelected in 1916. The author tried to get him to make a written statement regarding his part in this chronicle, but Senator Myers refused, saying that he preferred never to bring up the story again. After he retired from the Senate March 4, 1923, he again practiced law at Billings, Montana. In 1926 he ran for the Montana Supreme Court but was defeated. Strange things happen in politics. Maybe the people hadn't forgotten his vitriolic attacks on the Non-Partisan League in the campaign of 1920.

County, and William A. Clark⁷ of Madison County, and also Congressman Albert J. Campbell.

On the day after the banquet the Legislature passed a joint resolution authorizing the appointment of a committee of six members (three from each house) "to inquire into the charges of bribery which were freely and generally made in the city of Helena with reference to the then pending Senatorial election."⁸ The Clark leaders protested against this, but the anti-Clark men were determined and, carrying everything before them, they secured the passage of the resolution in both houses by a unanimous vote. The committee as selected consisted of Senators J. T. Anderson of Meagher County, Edwin Norris of Beaverhead County, and George H. Stanton of Cascade County; and Representatives W. J. Stephens of Missoula County, John R. Toole of Deer Lodge County, and E. H. Cooney of Cascade County.⁹ This committee was given the power to subpoena witnesses and to administer oaths.

When Fred Whiteside decided to expose the bribing of the Legislature, he was aware that it would be difficult and exceedingly dangerous. He knew that Bickford had not forgotten his deposition from the Capital Commission, and consequently Bickford distrusted him now. Whiteside, who

⁷William A. Clark, State senator from Madison County, sometimes called Clark's namesake, was no relation of the mine owner. The coincidence of the two names caused great confusion all throughout the session and made possible Miles Finlen's outburst of grim humor when the last ballot was cast upon January 23, 1899. See page 111.

⁸Senate Report, Memorial of the Citizens of Montana, Part I, p. 7.

⁹Ibid.

had been a Clark partisan before, felt that he could win the favor of the Clark forces by ingratiating himself and apparently falling in with their plans. In this he was correct and, in spite of Bidford, Clark seemed to have every confidence in Whiteside who was a valuable man in rounding up legislators. According to Connolly, Whiteside

"was peculiarly a man of action, reserved and intense, who did not know the meaning of caution, much less of fear. Having once decided to fight the power which was sapping the legislature, he was willing to pay the cost.

"He had repeatedly heard it said by members of the Clark party that the man who betrayed them would never live to be rewarded for his treachery. He had carefully prepared a written statement covering every detail of the plot that he had set out to expose, and had sealed it and handed it to a friend who was in his confidence, saying that if anything happened to him the whole story would be found in this envelope...For weeks Whiteside went about the streets of Helena with his pistol in his overcoat pocket, and at night his hand was usually in the pocket beside his weapon."¹⁰

Before Whiteside came to Helena he sought the advice of his close friend, Judge Smith of Flathead County. He told the judge that it was his understanding that Mr. Clark was intending to use money in the campaign, and that if he learned of any resort to bribery he was going to expose him if possible. The judge assured him that such a course would be a great benefit to the State.¹¹

Whiteside arrived in Helena in the last week of December, 1898, on the Thursday or Friday¹² before the Legislature was to convene the

¹⁰Connolly, op. cit., p. 633.

¹¹Senate Report, Synopsis of Whiteside's Testimony before Grand Jury, Part I, p. 12.

¹²Ibid., Whiteside's Testimony, Part I, p. 117.

following Monday. He was looked upon as a fit subject for missionary work and was approached by agents of all the senatorial candidates, but the Clark supporters were the only ones who offered him any money.¹³ The first Clark man to whom Whiteside talked was John S. M. Neill. Whiteside liked Neill, whom he had known for four or five years, Neill having acted as a character witness for him in a previous law suit. Neill invited Whiteside to his house for a meal, to talk politics, and to meet Charles Clark. Just as Whiteside reached the gate at Neill's house Charles W. Clark drove up in a hack and got out. Young Clark and Whiteside then introduced themselves.¹⁴

At this conference the conversation mainly revolved around the possibility of Whiteside's supporting W. A. Clark for Senator. Whiteside claimed that at this time he was mainly a listener and non-committal. He pointed out, however, that he was constructing a schoolhouse at Butte, and since the members of the school board were Clark's opponents he might have some trouble if he supported Mr. Clark.¹⁵ Neill and Charlie Clark hastened to assure him that they could make good any losses that he might sustain; nevertheless Whiteside made no promises that evening.¹⁶

A day or so later Neill took Whiteside to the second floor of the Helena Hotel where he introduced him to John B. Wellcome. Neill remained

¹³ Whiteside's speech in Montana Legislature, Jan. 10, 1899. Quoted by Connolly, op. cit., p. 636.

¹⁴ Senate Report, Whiteside's Testimony, Part I, pp. 117 ff.

¹⁵ Ibid., p. 119.

¹⁶ Ibid., Part I, p. 12.

with them but a few minutes. Whiteside told of this experience:

"We had a long conversation, Mr. Wellcome and myself, in which he wanted me to support Mr. Clark for the Senate. He said there would be something in it for myself; that they intended to do something for every man who supported Mr. Clark, and if I was the kind of a man Mr. Neill said I was I would be well paid by Mr. Clark. I talked a good deal with Mr. Wellcome after I gave them to understand that I had made up my mind to support Mr. Clark; told them I thought I could do as much as anyone and be worth as much as anyone else. Mr. Wellcome said he knew that, and that was the reason they wanted me. They said they would pay me \$10,000 for my support for Mr. Clark. I don't remember just what I said; I don't think I gave him any direct answer then, but told him that if I concluded to do so I would expect as much as anybody else."¹⁷

In the meantime Whiteside had sought the advice of Congressman Albert J. Campbell. The two men were very close friends, having served in the previous Legislature together, and Campbell had been Whiteside's attorney in a previous law suit. Campbell warned him, saying: "Mr. Whiteside, if you do anything of that kind you want to be very careful and not have it rest alone upon your testimony, because, if you do, you will certainly get the worst of it."¹⁸ They then talked over the possibility of receiving the aid of State Senator W. A. Clark of Madison County. At Whiteside's suggestion, Campbell agreed to speak to him and see what could be done.¹⁹

When Whiteside asked Campbell what kind of a man Clark of Madison was, Campbell assured him that the man in question was honest, reliable,

¹⁷Ibid., Part I, p. 12.

¹⁸Ibid., Campbell's Testimony, Part III, p. 2368.

¹⁹Ibid.

and could be depended upon.²⁰ Campbell saw Clark of Madison as directed, explained the proposition and solicited his help, but did not particularly urge him²¹, more or less leaving it up to the man to make his own decision.

Clark of Madison did not readily fall in with the scheme. He said,

"He [Campbell] talked to me about the Senatorial matter and informed me that there was no doubt that Mr. Clark's supporters were using money to procure votes for his election as United States Senator, and he wanted me to go into a scheme with those people, to assist in exposing...the bribery...We talked the matter over for some time, and finally I insisted on knowing who the party was who was engineering this thing. Mr. Campbell then told me [it was] Mr. Whiteside...."

He asked for a day to think the matter over, and Campbell so reported to Whiteside. After due consideration, the Madison County delegate did agree to help in the exposure and so informed Campbell the next morning, January 4, in the Senate Chamber. Whiteside then met Clark in the Helena Hotel and outlined to him the plan of procedure.

After Whiteside became acquainted with Wellcome, they had frequent conversations in which they discussed the possibilities of obtaining votes for Senator Clark from various members of the Legislature.²³ Wellcome inquired about Clark of Madison and asked Whiteside to offer him \$10,000 for his vote for W. A. Clark of Butte.²⁴

²⁰Ibid., Part III, p. 2530.

²¹Ibid.

²²Ibid., Testimony of Clark of Madison, Part I, p. 252.

²³Ibid., Testimony of Whiteside before Grand Jury, Part I, p. 12.

²⁴Ibid., Testimony of Whiteside, p. 111.

Whiteside said:

"When Clark agreed to help I talked the matter over with him and told him that I wanted him to agree to take this money which they had authorized me to offer him, and to insist that it should be put in my hands."²⁵

Clark of Madison agreed to this, saying:

"It was finally agreed that Mr. Whiteside should go to the Clark people and tell them that my vote could be purchased for Mr. Clark for the sum of \$10,000, the money to be left with Mr. Whiteside, to be delivered to me when I cast my vote for Mr. Clark for Senator. Mr. Whiteside [later] came to me and told me Mr. Wellcome wanted to see me, and to come to room 207 in the Helena Hotel. I went to that room and found Mr. Wellcome. Mr. Wellcome...said to me that they wanted my vote when they deposited the money in Whiteside's hands, to be delivered to me when I had complied with the conditions which they named. These conditions were that I was to vote for W. A. Clark, of Butte, as long as they wished me to, or until they saw that there was no chance for his election to the Senate.

"Wellcome then said that all of the big bills had been used up, but that it was all right, as they would turn the money over to Whiteside for me. I told them that I had no doubt of this, but that I was not doing business in that way; that they would have to produce the money and let me count it and see that it was all right, and I would seal it up and turn it over to Whiteside in his presence, after marking it so that I could identify it in case anything happened to Whiteside. Mr. Wellcome then said that the old man, Senator Clark, would be in on the evening train, and he would bring with him a lot of currency in large bills, and that he would see me again that evening and fix it up.

"I then left the room, and about half past nine or ten o'clock that night, January 4, Whiteside came to me and said that Wellcome wanted to see me in room 201. Mr. Whiteside and myself went up there and took seats. After a time Mr. Wellcome went over in the corner and took out a bunch of bills and beckoned to me to come over...I took the bills and counted them over, and there were ten \$1,000 bills. I placed them back in the envelope, sealed the envelope, and wrote my initials on the flap. I then wrote across one end of the envelope, 'The property of W. A. Clark,' and also noted on the envelope, 'Understood Conditions,'

²⁵Ibid., Testimony of Whiteside before Grand Jury, p. 12.

and then took my stylographic pen and threw a large blot of ink on the envelope as an additional identification...I then took the envelope which I had received from Mr. Wellcome, with the money which it contained, and turned it over to Mr. Whiteside."²⁶

Whiteside placed the envelope with the money in the safe-deposit vault of the Union Bank and Trust Company, as he did other amounts of money that were also entrusted in his keeping. He had two keys to the vault; one he kept himself and the other he placed in the hands of Congressman Campbell.²⁷

The other man whom Whiteside solicited to aid him in the exposure was State Senator Henry L. Myers. Whiteside had a great deal of confidence in the honesty and integrity of Myers. The latter was regarded by the Clark forces as "a hard nut to crack," having already rebuffed them on several occasions. Charlie Clark and Wellcome both desired that Whiteside should see Myers, sound him out, and negotiate with him for his vote. Whiteside was authorized to offer Myers \$10,000 if he would vote for W. A. Clark for Senator.²⁸ Whiteside met Myers on January 3, at the Hotel Warren where they were both stopping. Myers told the story as follows:

"Mr. Whiteside asked me to go to his room with him. He then told me he was authorized to offer me \$10,000 for my vote for W. A. Clark. I interrupted him in the remark and told him I had come there determined to have nothing to do with W. A. Clark or his money. He continued the conversation then, and unfolded to me his plan, and detailed to me the part that he wanted me to take, and the purpose for which he

²⁶Ibid., Testimony of W. A. Clark of Madison County before Grand Jury, Part I, p. 23.

²⁷Connolly, op. cit., p. 633.

²⁸Senate Report, Whiteside's Testimony, Part I, p. 113.

wanted me to take it. He said that W. A. Clark was undoubtedly using, through his agents, a great deal of money corruptly to secure his election as United States Senator, and was indulging in bribery, and he thought it the duty of someone to expose it; that he was going to undertake to expose it, and he wanted me to assist him in the matter...He spoke of the advisability of my appearing to accept the money, consenting to accept it, and having put it up in his hands to hold as a stakeholder for me, and then at the proper time to divulge it, expose it, and lay it before the Legislature. He spoke at some length about the duty of members to do this; that it was somebody's duty, and it had to be done by somebody or it would not be stopped.

"I told him that I would not, under any circumstances, vote for Mr. W. A. Clark; and as to promising to vote for him for this purpose I would think that over a little; that it was a new proposition to me; and that such a thing had never occurred to me before, and that I would think it over and let him know...The next time that I saw [Whiteside] to have any particular conversation with him was on the forenoon of Saturday, the 7th of January--the Saturday before the balloting was to begin. I told him then that I had thought the matter over, and had consulted with one of my friends as to the advisability of going into it...I concluded to do so ...feeling that it was my duty to the State and to myself, and that I should not be unwilling to render aid to stop this bribery.

"I told Senator Whiteside on Saturday evening that I did not care to meet W. A. Clark or his people unless necessary, as I had no promises to make, but that for the purpose of exposing bribery he could go to Mr. Clark or his agents and tell them that if they wanted to they could put up the sum of \$10,000 in his hands on condition that if I voted for Clark for the Senate the money was to be at my disposal; otherwise not. I saw Senator Whiteside again..., and he told me that Mr. Wellcome agreed to deposit this amount with him on those conditions, and that it would be done that evening at the Helena Hotel. Senator Whiteside said he could meet me at that hotel that evening as it would be necessary for me to go there to a room to see the money deposited."²⁹

Senator Myers went to the hotel as agreed.

²⁹ Senate Report, Myers' Testimony before Senate Committee, Part I, pp. 461 ff. Also his testimony before Montana Grand Jury, Part I, pp. 15-16

Whiteside had told Wellcome that Myers would accept the proposition; consequently, when Myers arrived at the Helena Hotel, Wellcome asked Whiteside to bring him up and finish the deal. Myers and Whiteside were unable to go into Wellcome's room, however, since he (Wellcome) was having another conference. Whiteside indicated that there was a room temporarily vacant across the hall, so Wellcome asked him to take Myers in there. After having done so, Whiteside went to get Wellcome to consummate the deal, but Wellcome would not leave his own room.³⁰ As to what followed, Whiteside indicated:

"Mr. Wellcome took me into the bathroom adjoining the room he occupied and took out of his pocket an envelope with a large number of bills in it. He...counted out \$10,000 and handed it to me, and told me to go and fix the matter up with Mr. Myers. I objected to this and told him that I preferred he would do it himself, and insisted that he do so, but he refused to do it; he made some excuse at least, and said, among other things, that he would trust me to do it, and asked me to do so. I took the money and went out, just across the hall, into the other room where Mr. Myers was, and put it in an envelope, counted it first in Mr. Myers' presence, and put it in the envelope and sealed it. Mr. Myers put his initials upon it, and I kept it...with the other envelopes I had."³¹

There was one other man who aided in the exposure of the bribery, but he did not do so willingly; that man was H. H. Garr of Flathead County.³² Mr. Garr was a Democrat and elected as a Representative to the Legislature. He had little or no property, and made his living from fees as a notary public and a United States Commissioner. He admitted that he

³⁰ Ibid., Whiteside's Testimony, Part I, p. 113.

³¹ Ibid.

³² Ibid., Garr's Testimony, Part I, p. 485.

sometimes made as much as \$50 or \$75 a month, but that at other times he made practically nothing.³³ Soon after Garr's election, A. J. Steele sent him \$20 to come immediately to Helena. Steele obviously wished to negotiate for Garr's vote. Steele finally admitted that he sent Garr the money³⁴, but said he wanted to see Garr in regard to some bounty claims, that he wanted Garr to work in the Legislature to have a bill passed that would pay all such claims, his own amounting to as much as \$10,000. Garr agreed with this and said he also wanted to see Judge Knowles in Helena to find out whether he could be a United States Commissioner and Representative at the same time. Garr was met at the depot by Steele when he arrived in Helena, and the two rode up town in a hack together and went to Steele's office where they had their conversation.

In the investigations which followed both Garr and Steele seemed to have poor memories. Steele made the following statements:

"I do not remember going to the Montana Central Depot soon after the election to meet Mr. Garr...I do not remember that Mr. Garr told me that he was coming to Helena; nor did he come here at my request. I did see him at the Montana Central Depot when he got off the train, but I cannot recall what business it was that took me to the depot...I saw Mr. Garr when he got off the train. I was standing on the platform and shook hands with

³³Garr was of German descent and was born at Elmira, New York, in 1840. He served in the Union Army during the Civil War for two years, enlisting shortly after the war broke out. He went through the battles of Bull Run, Antietam, and Fredericksburg, but was unharmed. The intricacies of society were foreign to Garr. He was short, dumpy, fairly heavy set, and rather clumsy in manner. He wore a long white mustache. No man in the Legislature was more anxious to accept Clark's bribe money than was Garr.

³⁴Senate Report, Steele's Testimony, Part II, pp. 1464 ff. Also Garr's testimony, Part I, pp. 482 ff.

him...I did not take him immediately to a hack and come up town with him. He and I rode up town in the same hack, casually. I do not know what became of him after we got up town. I cannot tell whether he left the hack before I did. I do not remember when I left the hack, but probably I did so at the Granite Block and went upstairs to my office. I do not remember whether Mr. Garr remained in the hack when I got out, but I presume he did."³⁵

Such testimony was laughable but hardly enlightening! If this were true, Garr's trip must have been a failure in regard to the bounty claims. Garr told the story as follows:

"We went up town...I won't swear it was Steele's office, because I don't know. I am pretty well satisfied that Mr. Steele wrote me a letter asking me to come. I do not know whether I have that letter now or not; I must have it if he wrote a letter to me. He must have written me a letter, because I saw him at the depot when the train came in...It might have been 8, 9, or 10 o'clock. I don't want to be held down strictly to the minute, because I don't know. I remained in Steele's office probably half an hour--twenty minutes or half an hour. From there I went to the Grand Central Hotel. I don't know where Mr. Steele went. He did not have those bounty claims there at that time. He merely made a general statement that he had them. I did not see Mr. Steele again about those bounty claims until after I went to Helena to attend the session of the legislature. There was nothing said at this time respecting the Senatorial question...the next morning after I came here I went to see Judge Knowles, and went into his office intending to speak to him about it, but some person came in and engaged him; so I went out and did not return again, so that I left Helena without consulting anybody respecting the commissionership, about which I came to Helena."³⁶

From his testimony it seems that Garr took a 400-mile trip for nothing. And, too, the Legislature failed to pass any appropriations to

³⁵Ibid., Steele's Testimony before the Grand Jury, Part I, p. 19.

³⁶Ibid., Garr's Testimony, Part I, pp. 35 and 433.

take care of the bounty claims. Steele indicated that he spoke to the State Treasurer, Mr. T. E. Collins, who informed him that the treasury was in no condition to pay the claims, so the matter was dropped.³⁷

But Garr's trip was a success. At this time his vote was negotiated for \$6,000. Steele admitted that the bounty claims were only an excuse to get Garr in Helena, because he was afraid Garr wouldn't come if he indicated that he wanted to urge him to vote for Senator Clark.³⁸

Whiteside did not take Garr into his confidence as he had the others. Garr had told Whiteside about his trip to Helena, how his vote had been sought, and that he had accepted the offer extended to him. He seemed to have confidence in Whiteside, and told him that he wondered if he would actually get the money if he did vote for Clark. Apparently he was distrustful of Steele. Consequently, since Garr was so evidently anxious to sell his vote, Whiteside did not take him into his confidence. He never made any definite statements to Garr, who was ignorant entirely of the exposure that was to follow. It was Garr who sought Whiteside to keep his money for him instead of letting Steele keep it. Whiteside agreed to do this.³⁹

Whiteside then advised Garr to see Wellcome and tell him that he (Garr) would like to have his money (\$5,000)⁴⁰ transferred from Steele's

³⁷Ibid., Steele's Testimony, Part II, p. 1466.

³⁸Ibid., p. 1464.

³⁹Ibid., Whiteside's Testimony, Part I, p. 271.

⁴⁰Garr was also to get another \$1,000 in cash.

possession to Whiteside's. Wellcome was entirely satisfied with this arrangement. A little later Steele met Whiteside and told him to hold Garr's money. Whiteside told of his part in this deal:

"The next day I met Mr. Steele coming down from Mr. Wellcome's rooms...He told me he had left the Garr money with Mr. Wellcome. Shortly after that I saw Mr. Wellcome and he gave me an envelope which was unsealed with five \$1,000 bills in it, which he said Mr. Steele left with him, being the Garr money, and he desired me to hold it for Mr. Garr. I took the money, or the envelope with the money in it, and went and got Mr. Garr and went into another room and took the money out of the original envelope and placed it in a new one and sealed it and had him sign his initials upon it and then I kept it."⁴¹

Garr's statements in this connection are quite entertaining:

"...I was sitting in a settee at the Helena Hotel, and Whiteside came up to me and said, 'I want to see you in a room in a few minutes.' We went up to a room, and when we got in there he said, 'I have \$5,000 here,' and he took out some money and counted it, and then put it in an envelope and got me to put my initials on the envelope, so that it could be identified. He then put the money into his pocket, and nothing further was said or done. I never asked him why this was required of me, what was the purpose, or why it was that this money was put in an envelope in this way. I can realize now that it was a very foolish thing for me to do without making some inquiry as to what his purpose was, but I did not do it, and cannot account for my not inquiring about the matter. The only explanation that I can now offer respecting this strange occurrence of my going through this performance in the manner that I have testified is that I was an unmitigated jackass. I do not know of any money being used illegally, nor do I know of Mr. Steele's having this \$5,000 for me, to be delivered conditionally upon my supporting Mr. Clark. I know nothing of the kind."⁴²

At the same time when Whiteside received the money for Garr from Wellcome he also received one-half of the \$10,000 that he had been promised

⁴¹Ibid., Whiteside's Testimony, Part I, p. 107.

⁴²Ibid., Garr's Testimony, Part I, pp. 22 and 34.

for his vote for Clark. Whiteside gave the details of this transaction:

"The money which I received--the \$10,000 which Mr. Wellcome had agreed to pay me for my services--he said he would place in the hands of Mr. Neill, as Mr. Neill had introduced me to him, and...I said it would be satisfactory. The next day, I think it was, I was in Mr. Neill's office, and he showed me the money and wanted me to take some of it. He offered to give me part of it if I desired it. I refused it at that time as I did on one or two subsequent occasions when he offered it...My reason was this perhaps: I became acquainted with Mr. Wellcome and Charlie Clark and these other people through Mr. Neill, who had been an acquaintance of mine, and I did not desire to use my acquaintance with him for the purpose of getting him into trouble, and I looked upon Mr. Wellcome and the others as the chief boodlers and the men who were the guilty parties, and I did not desire to entrap Mr. Neill.

"Shortly after this, perhaps two or three days, Mr. Neill again offered me money for perhaps the third time, and insisted on my taking some of it. He put some money into an envelope--he got a large envelope--and I accepted it from him without counting it. He said it was either three or five thousand dollars; I do not remember which. The next day I was in Mr. Wellcome's room--the next morning I think it was--and Mr. Wellcome was talking at that time about having difficulty in getting large-sized bills, and I turned over to Mr. Wellcome the money which Mr. Neill had given me...at the time he gave me Mr. Garr's money as I remember now, Mr. Wellcome gave me \$5,000 for myself in five \$1,000 bills. I had talked to Mr. Wellcome about this, I think, the day before and told him I might need part of the money or something to that effect. I put the money into a small envelope and sealed it up and wrote my initials on the flap of the envelope, and put it with the rest of the money, with the other envelopes."⁴³

All this money was placed in a safe deposit vault. The four envelopes held a total of \$30,000.

It may be noted in this testimony that Whiteside spoke rather well of John S. M. Neill; in fact, he indicated that he would have been glad to shield him, and that he did not want to get him into trouble. In

⁴³Ibid., Whiteside's Testimony, Part I, pp. 114-5.

return it may be interesting to know what Neill had to say concerning Whiteside:

"Mr. Whiteside called and used to speak to me quite often, and he used to be around the Clark headquarters considerable; ...he no doubt was acting as a spy all this time, and was endeavoring to find out whatever plans Mr. Clark and his friends had...I have always been a friend of Mr. Whiteside and have thought considerable of him; have stood up for him in all his troubles; but since...this morning, I came into possession of facts that would satisfy me that he was the most consummate scoundrel that ever lived."⁴⁴

On another occasion five witnesses were brought from Flathead County to testify to Whiteside's bad reputation⁴⁵, but this could not have been the general opinion of the county since he was elected to the State Legislature, then reelected from time to time, and finally promoted to the State Senate.

With the \$30,000 now in his possession, Whiteside was ready to explode the bomb. But he had to exercise care and caution. He had heard William McDermott, a Clark partisan and former Federal Marshall for Montana, make threats which he well knew were serious.⁴⁶

It will be remembered that on the 9th of January, the day before the balloting for Senator was to begin, a joint committee had been appointed to investigate the rumors of bribery. It was in the afternoon of this same day that Whiteside went to the Union Bank and Trust Company, where he secured the four envelopes containing the money and took them to

⁴⁴Ibid., Neill's Testimony before the Grand Jury, Part I, p. 18.

⁴⁵Senate Report, Wellcome Disbarment Case, Part I, pp. 216-227.

⁴⁶Senate Report, Whiteside's Testimony, Part I, p. 9.

his room in the Warren Hotel. Here he removed one of the drawers of the chiffonier, turned it upside down and, with carpet tacks, carefully tacked the envelopes under the bottom of the drawer, after which he replaced it.⁴⁷

On that same afternoon State Senator Myers was in Whiteside's apartment. The two were engaged in conversation concerning the next possible developments in the unfolding of this exciting drama. Whiteside informed Myers that he was to meet the investigating committee on that very night, make his statements, and then turn over to the Legislature the \$30,000 on the next morning before the balloting for Senator began. While Whiteside was talking, an intimate friend of his entered the outer room and overheard enough of this conversation to gather its import. He lost no time in telling what he had heard, and in just a short time, less than an hour probably, Charlie Clark was apprised of the fact that there was a plot afoot and that \$30,000 was to be turned over to the Legislature the next morning.

The Clark forces held a hurried consultation. Whiteside was the only man who was holding \$30,000 in trust for legislators. They then realized that Bickford's distrust and suspicion of Whiteside was well founded.⁴⁸ They determined upon a conference with Whiteside that same evening.

Connolly graphically describes the details of that meeting:

⁴⁷Connolly, op. cit., p. 633.

⁴⁸Ibid.

"At about nine o'clock that night, while Whiteside was in the lobby of the Warren Hotel, Charlie Clark came in. His face, always pale, was now dead-white, and his lips were strangely compressed.

"I want to see you," he said to Whiteside. Whiteside invited him to his room, but Clark motioned in the direction of the street. They went outside. Across the street was an undertaking establishment, and in the shadow of this building stood four men. Clark walked toward this group, and Whiteside followed. There was something in the rigid outlines of the figures that portended evil. Whiteside had a six-shooter in each overcoat pocket, and his hands sought his weapons.

"What is the matter?" asked Whiteside, as he approached the silent group of men, Charlie Clark two feet ahead of him.

"We want to see you," was the cold reply from Wellcome. 'Come down this way and we'll tell you.' The six men walked down the street to the office of the Independent, a newspaper owned by John S. M. Neill. They walked through the outer business office into a back room. The downstairs portion of the building was deserted. All the men took seats except Whiteside and Ben Hill. Whiteside stood in the doorway with his foot pressed against the door to keep it open, and Ben Hill...stood behind him, outside the door. Wellcome was spokesman; the others were silent. Wellcome told Whiteside that they heard that he was going to 'peach,' and they were certain of the truth of the rumor because the amount of money they had entrusted to Whiteside tallied exactly with the amount they heard was to be turned over to the Legislature the next morning. Wellcome said in so many words that if Whiteside was about to play the traitor, he would never leave that room alive.

"Whiteside talked against time. There was something in the attitude of the men that spoke more grimly than Wellcome's threat. Whiteside told them that the rumor was not true; that he did not have the \$30,000 in his hands now, and they knew it--that Wellcome himself knew it was in the safe-deposit vault of the Union Bank at that moment--and as he said this, Whiteside gave Wellcome the key. He reminded them of the important services he had performed--how he had revealed to them every particle of information that he thought might possibly be useful to them. He adroitly attempted to cast suspicion on others. He talked in this strain for thirty minutes. Growing bolder as he proceeded, and scanning closely the faces of his hearers, he finally said: 'But you have struck the wrong man if you believe this story is true and think any threats will faze me.'

"'You have misconstrued my remark,' said Wellcome, half-convinced; 'I didn't mean that as a threat. But if there's anything in this rumor,' and his voice dropped to a pleading tone, 'for God's sake stop right here. We don't care about the money. We'll give you ten times that much rather than have you do this. Besides, if you intend to do anything of this kind, we will see that W. A. Clark withdraws his candidacy tonight, and his declination will be published in the papers in the morning.'

"'You are utterly mistaken,' replied Whiteside. 'There is no better friend of W. A. Clark in the Legislature than I am.'

"'I believe Whiteside is telling the truth. I am willing to trust him,' said Charlie Clark.

"'You will find you are not mistaken, Charlie,' said Whiteside.

"Whiteside then said he was afraid of the Daly crowd, and asked if he could borrow a gun. John S. M. Neill took a revolver out of his pocket and handed it to him.

"Clark's friends deny Whiteside's statement that any threat was used by Wellcome at this meeting.

"The party looked after him with questioning eyes as Whiteside backed out of the doorway of the little office, and left the building."⁴⁹

Many might question the honor of Whiteside in this transaction. He told many falsehoods--he lied deliberately, plausibly, and even magnificently. But he had good reasons for doing so. He was with a crowd of desperate men, who might even have resorted to murder had they known his intentions; consequently it was probably necessary to save his own life. Furthermore he was anxious to see those who were guilty of the crime of bribery brought to the bar of justice; his own death might have prevented this. Montana was in disrepute in the matter of elections. Whiteside

⁴⁹Ibid., pp. 634-5. See Appendix III.

wished to rescue his State from this opprobrium. It was a notorious fact known all over the United States that the cost of Montana elections was enormous. It has already been noticed that the capital fight cost Daly over \$2,000,000 and Clark nearly half a million. Samuel T. Hauser admitted that the "big four" of the State in earlier days would contribute in the beginning of an election amounts of about \$40,000 apiece.⁵⁰ The "big four" of the State were Clark, Daly, Hauser, and Colonel Charles A. Broadwater.⁵¹ Montana had made an attempt to rid herself of this disgraceful condition when the Legislature in 1895 passed a new election law, drastically limiting campaign expenses.⁵² Whiteside felt that not only was this bribery a serious menace to the good name of Montana, but that it was also a defiance to this comparatively new law.

In this connection it is interesting to notice Whiteside's own reaction, as to whether or not he did prevaricate and play the part of the traitor. The following dialogue took place at the later investigation:

⁵⁰Senate Report, Hauser's Testimony, Part II, p. 1408.

⁵¹Broadwater was a Helena resident. He made money in railroading, banking, stock raising, and pleasure resorts. At the time of his death he was worth at least \$1,500,000. How he became Colonel is not clear. He came West at the age of twenty-one just as the Civil War broke out. Possibly "Colonel" was a courtesy in deference to his wealth.

⁵²The text of this law, passed February 25, 1895, is found in the Senate Report, Part I, pp. 17-20 inc. This law was framed and introduced by William H. Hunt who later became a member of the Montana Supreme Court. He was one of the Justices to pass on the case of the disbarment of Wellcome. This law allowed a candidate for United States Senator to spend \$1,000 personally and to give \$1,000 to committees--no more than one in any county. Clark could not have been elected legally to the Senate under this law, if only the money he and his agents admitted spending had been taken into consideration. This amounted to about \$139,000.

"Mr. Faulkner⁵³: Did you notify Mr. Campbell that it was your intention to become apparently a friend of Mr. Clark for the purpose of entrapping his friends?

"Mr. Whiteside: I cannot say; I suppose I did, but I have no recollection just what terms were used.

"Mr. Faulkner: Then, you recognized that this was a proper course to pursue in order to develop what you considered to be the detaching of the Legislature?

"Mr. Whiteside: Yes, sir; I still consider it proper.

"Mr. Faulkner: In doing that you had to assume the attitude of one who was misrepresenting his position, did you not?

"Mr. Whiteside: Yes, sir; to a certain extent.

"Mr. Faulkner: You had necessarily to assume the position of falsehood with those gentlemen?

"Mr. Whiteside: Well, I cannot say it was falsehood; I had to make, perhaps, a number of misstatements of fact of intimations to that effect; yes, sir.

"Mr. Faulkner: ...What is your understanding of the meaning of a lie?

"Mr. Whiteside: A lie, as I understand it, is an untruth told to a person who has a right to know the truth.

"Mr. Faulkner: Then you do not understand the definition of a lie to be a statement made with the purpose to deceive?

"Mr. Whiteside: Not necessarily, because you may ask me a question about some matter of which you have absolutely no right to know. If I refuse to answer, it may indicate to you the very thing you desire to know. Under those circumstances I think I have a right to make a misstatement.

"Mr. Faulkner: Then you believe that...a misrepresentation with a purpose to deceive...in a good cause is justifiable?

⁵³Former United States Senator Charles J. Faulkner of West Virginia, and counsel for Senator Clark in the Senatorial Investigation which followed.

"Mr. Whiteside: Yes, sir; if the circumstances justify it." ⁵⁴

Connolly tells of Whiteside's next move as soon as he left the Independent office:

"He fairly ran to the house on the outskirts of the town where the investigating committee was then in session. The house had been selected secretly by the committee to guard against a possible raid from thugs in the employ of the Clark faction. These heelers and rounders were everywhere...At about three o'clock in the morning, after the evidence of Whiteside and the other witnesses had been taken and subscribed, some of the committee proposed that the money be left with Whiteside until just before the Legislature met that morning. Whiteside objected. He wished to be relieved of the money at once. The entire committee then walked into town and to the Warren Hotel. Four men who accompanied them had each two revolvers⁵⁵ in their overcoat pockets. As they neared the hotel, a Clark man, standing on the corner, saw the committee with Whiteside and ran poste-haste down the hill. No time was lost. Whiteside hurried the committee to his room, and the money was turned over to the chairman, Senator Anderson of Meagher County. Anderson was protected by armed guards until he handed the \$30,000 to the Legislature the next morning. By the time half a dozen Clark heelers arrived at the hotel, apprised by the man who had been on guard, the committee had vanished." ⁵⁶

The next morning had been feverishly awaited ever since the Legislative session had opened. This was Tuesday, January 10, 1899--the day that balloting for United States Senator was to start. Before any ballot for Senator was taken, however, the investigating committee was called upon to make a report. This it did and the report was sensational--probably the

⁵⁴Senate Report, Whiteside's Testimony, Part I, pp. 122-3.

⁵⁵Neill testified before the grand jury that he had loaned Whiteside a six-shooter which had not been returned. Senate Report, Neill's Testimony before Grand Jury, Part I, p. 13.

⁵⁶Connolly, op. cit., p. 635.

most dramatic episode that ever happened in a Legislature of Montana. The committee the night before had taken testimony from State Senators Clark (of Madison County), Whiteside, and Myers, and also Congressman Campbell.

Whiteside's testimony was read first because it was probably the most important. In this testimony Whiteside told how he had been approached by agents of all the senatorial candidates, but that those of W. A. Clark of Butte were the only ones who had offered him any money. He saw W. G. Conrad⁵⁷ who was a candidate throughout the session, but Conrad insisted that he would not use any money that way. Whiteside also saw John R. Toole, who represented Senator E. D. Matts, but Toole also said that he had no money for that purpose. Whiteside's testimony went on to tell his relationships with the Clark lieutenants, especially Wellcome, from whom he had received the money; how he had persuaded Clark of Madison, and Myers of Ravalli, to help him expose the bribery; and how he had also gotten the money for Garr. Whiteside's statements also showed conclusively that Wellcome was an agent of W. A. Clark and that Clark, at least in a general way, knew what Wellcome was doing, since Clark and Wellcome were both present at many consultations with him.

⁵⁷W. G. Conrad, Clark's foremost rival for the Senatorial election, was a very prominent citizen of Great Falls. He was engaged in banking, stock raising and mining. He claimed that he had practically enough votes pledged to elect him; 43 different men voted for him at some time or other, but the most he ever received on any one ballot was 33 on the second ballot. It required 47 to elect. He said that ten men who were practically promised to him voted for Clark. Conrad testified that he spent between \$5,000 and \$10,000 before the Legislature met, but not over \$200 after it met. Senate Report, Part III, pp. 2197-2204.

Whiteside's testimony continued:

"There seemed to be no end to the supply of money. I think they expected to use nearly \$1,000,000, and, as near as I can judge, have already paid out about \$200,000. A considerable portion of this money was absorbed by the second lieutenants who handled it. Some of it was paid to members, but the larger portion of it was deposited with third parties, to be held in escrow. They ran short of money several times, because large-sized bills were hard to get. Wellcome said that W. A. Clark had instructed them to go in and win, no matter what it cost. They generally paid \$500 or \$1,000 down and the balance was to be placed in the hands of a third party, to be paid to the member after he had given his support to W. A. Clark for United States Senator. It was not contingent upon Clark's election.

"I do not think W. A. Clark knew all the details, but he knew in a general way what was being done by Wellcome and the others, for in talking over the different members with him, he spoke of Senator Anderson and said that he could not be influenced with money like some of the other members. I have never had any ill will toward any of the persons about whom I have testified, and I was not doing this in the interest of any other Senatorial candidate. In fact, I did not let any of them know what I was doing. I would have caught the others if they had been using money. At least that was my intention and I believe I could have done it. I did this...entirely upon my own responsibility. I wanted to catch every man who was concerned in such work, and my object was to break up the band of boodlers that have so long infested this State."⁵⁸

The testimonies of Myers and Clark of Madison corroborated entirely that of Whiteside. Clark told how Wellcome had taken him to another part of the room under the pretext of calling his attention to an engraving which hung on the wall, and had then handed him the money.

Connolly has given a good description of the Legislature while the committee was reading this testimony:

⁵⁸ Senate Report, Whiteside's Testimony before Investigating Committee, Part I, pp. 6-10.

"The air of the Legislature was so intense as to be appalling. The guilty ones were in a frenzied state of suppressed excitement. They looked into one another's eyes and felt the terror of the thing. Some rushed to their friends and begged them to save their reputations. Others stood in mute consternation. The \$20,000 was turned over to the clerk who later gave it to the State Treasurer for safe-keeping. The clerk held up the money so that everyone could see--when he did so the silence was so terrific that the ticking of the clock crashed out like the booming of guns."⁵⁹

After the investigating committee had finished its report, White-side evidently was not quite satisfied. At any rate, he rose from his seat and made a short speech. Some of the things he said were:

"Men of apparent respectability and good standing in this community are trafficking in the honor of members of this body as they would buy and sell cattle and sheep. They have gone into this Senatorial contest as they would enter into a government contract to furnish horses. What new code of morals or of ethics has been discovered which makes of bribery a virtue, and condones the crime of a man because he is rich?

"I know there is a sentiment in this community which favors the election of W. A. Clark to the United States Senate by fair means or foul. I know that the course I have pursued will not be popular, but so long as I have life I propose to fight the men who have placed the withering curse of bribery upon this State. I had rather go back to the carpenter's bench where I learned my trade, and spend the rest of my days in toil and obscurity and be able to hold my head erect and look the world in the face, than be a party to the condonation or the knowledge of this crime unexposed. The man who is weak will come out of this contest infamous, while he who is strong will emerge from it sublime. What has become of the men who were bribed in the Legislature of 1893? Stunned by their fellow-citizens, spurned by the very scoundrels who caused their downfall. This contest between two men has already culminated in murder in Precinct Number Eight in Silver Bow County⁶⁰, and the life of the man is not safe who dares to oppose the element that committed that crime. My own life

⁵⁹ Connolly, op. cit., p. 637.

⁶⁰ See Appendix IV.

has been threatened, but I defy the men who have made the threat; for when weighed against honor and honesty, life has no value; and if this be the last act of my life, it is well worth the price to the people of this State."⁶¹

The joint session dissolved. The spectators in the galleries remained, hushed and motionless, while the Senators with strained eyes and compressed lips filed through the aisles and across to the lobby of the Senate. No one who was present at that scene can ever forget it.⁶²

The first ballot for United States Senator was soon taken. It would be reasonable to suppose that, after such a blast as the report of the committee and such a scathing indictment as given by Whiteside, Clark would not receive a single vote on that ballot. But such was not the case. The Clark forces were thoroughly alarmed--many of them were frightened almost beyond repair--but seven of his most staunch supporters voted for him regardless. He received three votes in the House and four in the Senate. The Clark leaders had boasted that they would have fifty-four votes on the first ballot, but all except seven were badly scared. It is interesting to note that just eighteen days later, on the 28th of January, this same Legislature did elect William A. Clark to the Senate of the United States with exactly fifty-four votes.⁶³

⁶¹Proceedings of Sixth Assembly of the Montana Legislature. Quoted by Connolly, op. cit., p. 637.

⁶²Connolly, op. cit., p. 638.

⁶³All the ballots and the voting record of each member of the Legislature is found in the Senate Report, Part III, pp. 1909-22. The four Senators who voted for Clark on the first ballot were: Hoffman of Gallatin, Riddell of Lewis and Clark, Tierney of Broadwater, and Warner of Jefferson County. The three Representatives were: Conrow of Park, Luddy of Jefferson, and McLaughlin of Missoula County.

The exposure and the poor showing on the first ballot thoroughly discouraged and unnerved Clark. Connolly describes him as being

"then incapable of constructive thought; but he bowed to the storm. He stood that afternoon in the crowded lobby of the Helena Hotel, a crushed and broken man. He saw the mailed hand of the implacable enemy who pursued him with relentless fury. Daly himself was in New York, but politically he was ubiquitous, omnipresent. At every turn Clark met this Nemesis. It crept upon him in dark alleys under cover of the night, and pursued him openly in the highways. Clark's furtive eyes glanced into those of his son and of Wellcome, who stood with him in the little group from which the surging crowd in the lobby held sympathetically aloof. He saw there only the reflection of his own despair."⁶⁴

His henchmen were anxious to save him from utter collapse. Neill, Davidson, and Steele sent telegrams to every old-time friend of Clark they knew, summoning them to Helena. It was hoped that they would be able to cheer him up.⁶⁵

⁶⁴Connolly, op. cit., p. 639.

⁶⁵Ibid.

CHAPTER VI

THE GRAND JURY INVESTIGATION

Clark was not yet defeated. Even though he was so downcast that he was incapable of doing any logical thinking, his lieutenants were not idle-- in fact, they were working overtime. Connolly indicates that "some of them had been trained in the Daly camp, and they were resourceful in plan and adroit in execution."¹ According to Mangam, Clark was actually sick...

"He lay on a bed while Charlie and Wellcome sat by him. He lay utterly prostrate and groaning, with his hands stretched above his head, while from time to time he was seized with a fit of nausea and bent over the spittoon by his bedside. Tom Hinds, who had been sent for, came in. Going over to the bed, he took one of Clark's arms, gave him a tug...."²

and told him to get up and make the claim that it was Daly's money. Let Whiteside, Clark of Madison, and Myers be indicted for conspiracy; let them be prosecuted as defamers of character.³

Clark listened intently. "Do you think that would work?" he asked. When assured that it would, he sat up and showed no further signs of sickness.⁴

The next day Clark's Butte Miner declared in flaring headlines that the Whiteside revelations were "A Damnable Conspiracy" and "A Daly Trick." With a new strength which Clark had never before shown, he now set his

¹Connolly, op. cit., p. 639.

²Mangam, op. cit., pp. 58-9.

³Connolly, op. cit., p. 639.

⁴Mangam, op. cit., p. 59.

teeth and clinched his fists. He was ready to carry on the fight. He had faltered only momentarily.

The next problem calling for immediate solution was the investigation to be made by the grand jury. While the joint assembly was still in session, January 10, Representative Stephens of Missoula County introduced the following resolution which was adopted unanimously:

"Resolved, by the House of Representatives, in joint assembly with the Senate, that the evidence submitted to the joint assembly by the joint committee of the Senate and House is sufficient to convict the persons therein named of the crime of bribery in any district court of this State, and therefore we request that the judge of the district court of the First Judicial District in and for the County of Lewis and Clark, call a session of the grand jury⁵ in said district to take up and examine into the matters stated in said report, as they would in any other case of alleged crime against the peace and dignity of the State."⁶

In order to obtain a grand jury decision favorable to Clark, not only would more bribery have to be used but there would also have to be some manipulation of the court which was to preside at the hearing.

The next day after the resolution was passed (January 11), the grand jury was called by Judge Sidney H. McIntire, one of the judges of the district court, sitting at Helena. The jury began its labors three days later. Clark's hand can be seen in this incident. Judge Henry C. Smith presided over the criminal department of the district court in Helena, and in the ordinary course of events it was his province to call a grand jury. He was temporarily absent from the capital on the 11th but

⁵It will be remembered that Clark spoke against grand juries in the Montana Constitutional Convention. See pages 14 to 16 inclusive.

⁶Proceedings of Sixth Assembly of Montana Legislature.

was to return on the following day. Judge McIntire, however, immediately called the grand jury. McIntire's brother, a practicing lawyer of Helena, was shortly afterward employed by Clark at a large salary. This brother would never divulge just what this retainer was.⁷

Thus the Clark forces won the first skirmish. By clever strategy they befogged the issue by telling how they had heard vague rumors of a Daly conspiracy; that this \$30,000 was probably used just as a ruse to injure Clark and defeat him for the Senate; that they knew nothing definite, but that the air was full of intrigues and immuendos.

The grand jury was in session twelve days. It finished its labors and made its report on January 26, just two days before the final ballot when Clark was elected. It should be remembered that the work of the grand jury was running along concurrently with the balloting for Senator. It is somewhat significant, too, that Clark was not elected until after it had made its report.

The testimony given by Whiteside, Myers, Clark of Madison, and Congressman Campbell, was substantially the same as that which they gave to the investigating committee. They merely rehearsed the story of their associations and how they had obtained the \$30,000, and of their turning it over to the committee.⁸ In order to have a complete story, the testimony of some of the other witnesses must be noticed.

⁷Connolly, op. cit., p. 639.

⁸Senate Report, Part I, pp. 12-36 inc.

Mark Hewett, a Clark worker, lived in Basin, Montana. He claimed to be in Helena because he wanted to see United States Senator Thomas H. Carter on a mining deal. He said he was not taking any active part in the Senatorial fight, and had not used any money to purchase anyone's vote.⁹

John S. M. Neill said he knew of no money being used to further the candidacy of any man for the United States Senate. He adroitly attempted to throw suspicion on the Daly cohorts. He said:

"The Anaconda crowd, so called, has quite a lobby, who are in no way impecunious in spending money around barrooms, etc. They are, for instance, Jerry Flanagan, Haggerty of Butte, Harrity of Anaconda, Donohoe of Anaconda, Conley and McLagane, Dr. Warren, and Mr. Toole."¹⁰

A. J. Steele admitted that he was a Clark supporter and that he had spoken to many members of the Legislature in behalf of his candidacy. He said that he might have received as much as \$4,000 which was to be spent legitimately, but that he couldn't tell how it was expended. He denied receiving \$10,000 from Wellcome or that he ever held \$5,000 for Garr.¹¹

Ben Hill admitted that he was favorable to the election of Mr. Clark to the Senate, and that he had talked to Senator Myers about voting for him. He said:

"I am satisfied from the conversations that I had with him (Myers) that he was not averse to taking money for his vote. I believe he was desirous of getting money for his vote, and

⁹Ibid., Part I, p. 17.

¹⁰Ibid., Part I, p. 18.

¹¹Ibid., Part I, pp. 19-20.

feels now, from the conversations I have had with him, that he is left in the soup; that undoubtedly Whiteside is getting money for making this exposure, and Myers gave up the \$10,000 that were delivered to Whiteside for him and is simply left out in the cold...I do not know of any money being used improperly. I am not getting \$25 a day from Mr. Clark or any other man."¹²

A. L. Smith, president of the Montana National Bank, indicated that he knew of no one's obtaining any \$1,000 bills at his bank. He said that Wellcome had been in his bank but didn't know what he came in there for.¹³

D. O. Becker, clerk at the Helena Hotel, told that no arrangements had been made to pay the expenses of any persons who were in Helena in the interest of Senatorial candidates and that every guest there was responsible for his own bill.¹⁴

D. G. Warner was State Senator from Jefferson County. He testified in regard to his support of Clark, saying:

"I made no pledge before receiving the nomination that I would oppose the candidacy of Mr. Clark for the Senate...It is possible that there was some talk before my getting the nomination that I should oppose the candidacy of Clark, but there was no pledge made, and if I did say I would oppose him I was simply practicing diplomacy, as everything is fair in politics as in love or war. I was exceedingly careful about that, and tried to be as non-committal as possible in declaring myself to one person or another, as it would mitigate the chances of election and provoke opposition that might be avoided."¹⁵

¹²Ibid., pp. 20-21.

¹³Ibid., p. 21.

¹⁴Ibid., p. 21.

¹⁵Ibid.

E. M. Lamb was a member of the Legislature from Silver Bow County. He said that he knew of no money's being used in behalf of any candidate for the United States Senate and that no money had been offered to him by anyone.¹⁶

Jerre Clifford, also a legislator from Silver Bow County, testified almost identically the same as Lamb.¹⁷

A. J. Davidson admitted that he was an active supporter of Mr. Clark. He also said he had received some money to pay for the expenses involved, but that he knew of no money's being used illegally. Concerning the \$30,000, he said:

"I know nothing about the \$30,000 alleged to have been given by Mr. Wellcome, but I believe that if that were the case; if the money were given by him, my connection with Mr. Clark and with those who have been managing his campaign is such that I would have known something about it. I know nothing whatever about it."¹⁸

H. H. Garr's testimony, that he was an "unmitigated jackass" for signing his initials on the envelope with the money in it, has already been mentioned. John R. Toole said that "in fact his story was so odd, that one of the gentleman who was examining him asked him if he were not hypnotized."¹⁹ Garr also related a conversation he had had with Whiteside. He said:

"...before I came before the investigating committee, Mr. Whiteside came to me, and he said, 'I hear you are denying having seen the money.' He said, 'There is a way for you to get out of this with honor to yourself, and for God's sake,

¹⁶Ibid.

¹⁷Ibid.

¹⁸Ibid., p. 22.

¹⁹Ibid., p. 27.

when you go before the investigating committee, swear that you and I talked this matter over, and it will be all right.' I never made him any answer at all. I was sick enough at that time to be in bed."²⁰

Garr was inconsistent enough, though, to admit that he could get \$5,000 for his vote.

Walter M. Bickford admitted that he was a lawyer generally employed by W. A. Clark under a retainer. He testified concerning the \$30,000:

"I have no knowledge of a conspiracy being formed in connection with the presentation of this \$30,000...Rumors of various kinds are afloat, but of course those rumors are just as acceptable to you as to me."

Bickford rather adroitly tried to blacken Whiteside's character when he referred to the Capital Commission investigation of two years before. He said:

"...before the presentation of the minority report assailing the character of the members of that commission a copy of that report was placed in the possession of Dr. Cole, and Dr. Cole and myself were given to understand that if \$2,500 were paid the report would be suppressed. Dr. Cole and myself unhesitatingly and unqualifiedly refused to pay a cent."²¹

William McDermott said he was an ex-marshal of Montana and active in the support of the candidacy of Mr. Clark. He claimed to know nothing about the use of any money in behalf of W. A. Clark or any other Senatorial candidate. He further said:

"I am pretty intimate with the men who are conducting Clark's campaign, and possibly would know if large sums were being paid out...As to this conspiracy rumor, a person can hear almost anything. I know nothing of any money being used to...encompass

²⁰Ibid., p. 35.

²¹Ibid., p. 24.

the defeat of any Senatorial candidate. I have heard the rumor that W. A. Clark, of Virginia City, and Senator Whiteside were each getting \$35,000 to uncover the \$30,000 alleged to be money paid in behalf of Mr. Clark. I do not recollect who it was that I heard say that."²²

W. H. Campbell was a State Senator from Park County. He said that he had had a conversation with Congressman Campbell who told him that he would be offered money to vote for W. A. Clark, and that there was a movement on foot to expose the bribery. He had answered, he said, "The first man that offers me money I will slap his face." The Senator said he would be glad to see the bribery exposed, but that he didn't care to take part in the exposure. He further said that he actually had no personal knowledge of any money's being spent either for or against any Senatorial candidate.²³

G. H. Stanton, a State Senator from Cascade County, claimed to be supporting the candidacy of William G. Conrad. He testified that before he came to Helena Ed. Burkhardt, a clerk at the Boston and Montana Smelter, came to him and told him that he (Burkhardt) was authorized to offer him \$10,000 for his vote for W. A. Clark. He replied that, regardless of his personal inclinations, he could not agree to support Mr. Clark in any way, if he was endeavoring to secure his election in that manner.²⁴

Henry G. Richterts was clerk of the supreme court. He gave the interesting information as to how D. G. Warner was nominated for State

²²Ibid., p. 25.

²³Ibid., p. 25.

²⁴Ibid., p. 26.

Senator at Boulder. Warner had said that he was always opposed to W. A. Clark; consequently he was nominated with the distinct understanding that he vote against him. He could vote for anyone else for whom he saw fit. However, he voted for Clark on every ballot.²⁵

John R. Toole was a Representative of Deer Lodge County, a resident of Anaconda, an employee of the Anaconda Copper Company, and was a close friend and associate of Marcus Daly. In this light his testimony is interesting. He said:

"I know of no money being used by or through Mr. Daly or any of his friends in behalf of, or in opposition to, the candidacy of anybody for the United States Senate. So far as I know everyone from Anaconda is defraying his own expenses."

He claimed that he knew that Whiteside held the money for the members of the Legislature and that he was going to expose the bribery. In this connection he said,

"I know of no conspiracy as to this being Mr. Daly's money or as to its being any other money than Mr. Clark's...I regret exceedingly the use of money in politics...I do not know but that Mr. Daly is as much to blame [for it] as anyone else...I had a talk with Mr. Daly a short time ago, and he regretted about the use of money in politics; that it was demoralizing to the State and injurious to it, and he felt that it was necessary to refrain from it...if the State's credit was to be maintained."²⁶

J. L. Truscott was a Representative from Valley County in the northern part of the State. He attempted to throw suspicion upon the good intentions and motives of W. G. Conrad, Clark's closest rival for the Senate, saying:

²⁵Ibid., p. 26.

²⁶Ibid., p. 27.

"...although I would not promise to vote for him, Conrad, he made me a proposition that there would be no difficulty about his getting me the contract for furnishing supplies to an Indian agency, and went on to represent how lots of money could be made through practicing fraud upon the Government by delivering the same supplies over and over again. He spoke... in a general way that he never forgot his friends; ...that he would have no difficulty in getting this post-tradership, so that I would be enabled to make lots of money. I figured that he was trying to purchase my vote in this way, although he made no direct offer; did not tell me that if I voted for him he would do this, and in fact I never gave him to understand at any stage of the proceedings that I would vote for him."²⁷

Charles W. Clark admitted that he and John B. Wellcome were the principal disbursers in the campaign in behalf of his father. He admitted that small amounts had been given to various individuals, but he emphasized that the money was only to be used for legitimate expenses. His memory was poor on occasion, and he was rather vague. He said:

"I do not know of any money being used corruptly in this Senatorial election. There are a number of people here from Anaconda who are allied with the Daly crowd, who are spending money liberally; presume that this money thus spent is not their own money, although as to this I am not advised."

Clark then proceeded to name the same group that had already been named by John S. M. Neill.²⁸

W. M. Tuohy was the business manager of the Anaconda streetcar line, water-works, and electric light works. He confessed that he was in Helena in the interest of Mr. Matts for the Senate, but insisted that he was paying his own expenses and that he knew of no money's being used by Mr. Daly in this campaign either directly or indirectly.²⁹ Almost the same testimony

²⁷Ibid., p. 23.

²⁸Ibid., p. 30.

²⁹Ibid.

as this was given by Antone Harrity, a master mechanic of the Butte, Anaconda and Pacific Railroad.³⁰

T. J. Anderson, the Senator from Meagher County, testified that even before the meeting of the Legislature A. J. Steele had come to see him at White Sulphur Springs. Steele was urging the candidacy of Clark and wanted Anderson to come immediately to Helena and see several people in this regard. Steele offered to pay all of Anderson's expenses and also would have paid the wages of a man who would take Anderson's place in his own store while he was absent. After he did come to Helena, when the Legislature was ready to convene, Anderson said that Whiteside told him that he would have no difficulty in getting money for his vote from Wellcome. Whiteside urged Anderson to aid him in exposing the bribery, but Anderson did not feel inclined to do this so refused.³¹

J. B. Wellcome's testimony is the masterpiece of the entire collection. It surpasses all the rest in vagueness, poor memory, innuendo, and casting adroit suspicion on others. The best parts of it are as follows:

"I had several conferences with Whiteside...He would drop into my room quite frequently...I talked with him about the use of money on certain members of the Legislature in a certain way. We discussed the use of money but made no reference to any particular use of it. We simply talked in a general way as to whether certain members of the legislative assembly were susceptible to the use of money and spoke of them as with reference to their being susceptible to the other side--that is to say, as to whether they could be bought by the other side.

"As to a conspiracy being formed to use Daly's money to injure the candidacy of W. A. Clark, I know nothing about (that)..."

³⁰Ibid., p. 31.

³¹Ibid., p. 32.

except from the reports made by Whiteside, Clark, and Myers, and, judging from the character of the reports and the money used, there must have been a conspiracy. I have no personal knowledge of any conspiracy myself, as I have never conferred with the conspirators. Of course there are rumors and reports that come to me, as I am managing Mr. Clark's campaign. I get reports from those people whom I have employed, and I get all kinds of reports, and they refer to the payment of money and the taking of money, but personally I could not say anything about it. I am one of the disbursing agents of W. A. Clark in this campaign. I...have disbursed somewhere in the neighborhood of \$15,000.

"...I do not know of any bribery that has been going on. I know Mr. Tuohy and Mr. Wallup. I do not know of their using any money against Mr. Clark here, as I never had a rumor respecting that, that I considered authentic, or that I considered even worth while to follow. There were some rumors that came to me of efforts made by Mr. Conrad, and some of them seemed to come from an authentic source. I do not believe I could tell what the efforts were. I heard of efforts being made by Mr. Ashby, my understanding being that it was in behalf of Mr. Conrad, but I do not remember distinctly what they were. Rumors are so rife that it is not worth while to pay any attention to them unless they become more authentic, and it is quite useless to attempt to run them down. I heard it was made to someone in behalf of Mr. Hill, of Jefferson County. I heard that something was offered to Truscott, of Valley County. I do not know whether it was money or an Indian agency. I heard of an offer being made to Mahon that was in the nature of an offer for money by somebody in Great Falls whose name I do not remember. I do not know of anybody else who has made offers. No money has been used in behalf of Mr. Clark's candidacy except for legitimate purposes."³²

With this array of testimony it should not have been difficult for the members of the grand jury to do their duty; yet money talks. On January 26 it made its final report. According to Connolly, its

"proceedings...were among the most brazen in the whole shameless trafficking. It was publicly rumored that each member of it received \$10,000 and the foreman, one Ellis, \$15,000, although the truth of these rumors was never proved. It was said that the grand jury would not have dared to make

³²Ibid., p. 34.

an adverse report in the face of the sentiment in Helena. Besides, everybody felt that Clark was going to spend the money anyhow, and why should the grand jury be neglected when everyone else was getting his share?"³³

The report read as follows:

"We have carefully weighed all the evidence submitted to us, and while there has been some evidence which tends to show that money has been used in connection with the election of a United States Senator, it has been contradicted and explained in such a way that all the evidence introduced before us, taken together, would not, in our judgment, warrant a conviction by a trial jury."³⁴

This was a neat job of sidestepping and whitewashing. The Clark forces were jubilant. The wavering legislators breathed a sigh of relief; they could now vote for Clark without the fear of being prosecuted. They were dubious about accepting money that might mean indictments and criminal trials. With no further difficulty in sight, they proceeded to elect their candidate just two days later.

³³Connolly, op. cit., p. 40.

³⁴Quoted by Connolly, op. cit., p. 40.

CHAPTER VII

WHITESIDE'S LATER DIFFICULTIES

When Whiteside had finished giving his testimony before the investigating committee, and the exposure had been made to the Legislature, his difficulties were not over; actually they had just begun. In addition to taking part in further investigations, he was soon confronted with a law suit, a disbarment case, and a contest for his seat in the State Senate.

As soon as the exposure was accomplished the Butte Miner, Clark's own newspaper, let loose one of the most terrific bombardments of abuse, slander, and falsehood against Whiteside that any man ever experienced. Whiteside, of course, could ignore everything, which meant practical resignation to his fate, whatever that might be, or he could attempt, at least, to fight. Whiteside chose this latter course.

A few extracts from the Miner will suffice to show the provocation given. The next day after the exposure the following appeared in the headlines and elsewhere in the paper:

"State Senator Whiteside, notorious for his connection with the charges against the State Capitol Commission, the tool used by the gang who are attempting to run things at Helena on the Anaconda plan--Abortive attempt to stampede members of the Legislature by exhibition of money and charges of bribery--Whole thing bears evidence of having been cooked up by the arch-conspirator for use of the day when the first ballot for United States Senator was to be taken--Result of the vote shows that the scheme did not pan out as well as expected."¹

¹Butte Miner, Jan. 11, 1899.

All during the legislative session the tirade was kept up. A few days later this piece of obscenity appeared:

"Personal representatives of Marcus Daly shouted with glee when the scoundrel assailed the virtue of the women of Helena; ...Desperate attempt of a perjured and conscienceless villain to stain the character of reputable men and women of Montana, ...He said that all members who voted for W. A. Clark and were not paid for it were as infamous as those who were bribed. He said they would pimp for their own wives and daughters. He said that the silk-stocking crowd of Helena rode around in carriages with Clark badges upon their breasts and Clark hoodle in their pockets."²

Concerning the assertion that the \$30,000 belonged to Marcus Daly instead of Clark, the Miner had this to say:

"How desperate the conspirators must have been is evidenced by the fact that \$30,000 of Daly money is turned over to the State just to create the impression that an effort was being made to buy a seat in the Senate."³

In the fall election Whiteside had been elected State Senator from Flathead County by a majority of only eight votes over his opponent, John H. Geiger. Geiger immediately instituted proceedings for a contest since the majority was so small. The Flathead ballots were sent for and in the meantime the contest was pigeon-holed until after the exposure. When this was over, the Clark forces, who were in a majority in the Senate, took up the contest in earnest. As every voter knows there is a little square placed on the left side of every candidate's name. The voter is supposed to make a cross in the square opposite the name of the candidate of his

²Senate Report, Part II, p. 626; Butte Miner, Jan. 11, 1899.

³Senate Report, Part II, p. 627; Butte Miner, Jan. 27, 1899.

choice. In the recount of these Flathead ballots it was found that seventeen of them had been marked incorrectly. The voter had placed his cross on the right side of the name, instead of in the square on the left. The law requires that the cross be placed in the square. When the committee came to the first of these seventeen ballots, the cross was to the rear of Geiger's name, but the intention of the voter was apparent. He had intended to vote for Geiger. The ballot was, after some dispute, counted for Geiger. When they had counted clear through the ballots, it was found that of the seventeen erroneous ballots a large majority were for Whiteside. The committee then reversed its previous ruling and discarded all these seventeen ballots, counting Whiteside out.⁴ Whiteside was unseated January 26, 1899, on the same day that the Grand Jury reported.

On the following day the Butte Miner had a great deal to say. The streaming headlines proclaimed:

Mr. Clark's Supporters Fully Exonerated by the Grand Jury

His Vindication Is Complete

Testimony Was False

Damnable Plot of the Conspirators Came to Naught

A Moral Leper Lost His Seat

Senate Chamber Will No Longer Be Polluted by Fred Whiteside

Vote Was Two to One

Conclusive Proof that Geiger Was Robbed of His Rights

The Latter Sworn In at Once

⁴Connolly, op. cit. Note p. 40.

"Fred Whiteside was fired, 'bag and conspiracy,' from the Senate this afternoon by his fellow-Democrats, and, amid the silence of contempt and scorn, the arch conspirator departed from the Senate chamber, an outcast from society, dishonored and disgraced, and henceforth to become a pensioner of the Anaconda Company.

"Stanton and Myers and Clark and Norris made a desperate attempt to delay the righting of an outrage upon the ballot box, but the honest Senators, Democrats, Populists, and Republicans, would not consent that the loathsome and detested bribe solicitor should remain in their presence a moment longer than necessary, and Whiteside was sent forth to wallow in his own filth, the latest example of 'purity in politics,' an object of scorn and contempt of all who know him.

.....

"Fred Whiteside, retiring Senator from Flathead County... made a carefully prepared half-hour harangue. The speech was such as could have emanated from no one but a masculine strumpet, a political bawd, a well-paid harlot of a conscienceless gang of party wreckers, whose false lights gleam on every headland of Democracy in the State of Montana."⁵

Whiteside did make a speech, but what he said was as follows:

"I understand that the fiat has gone forth, that this is the last day I am to be a member of this body; and if I failed to express myself at this time, I feel that I would be false to myself, false to my home, and false to the friends that have stood so manfully by me.

"Let us clink glasses and drink to crime. The crime of bribery, as shown by the evidence here introduced, stands out in all its naked hideousness, and there are forty members seated here who, today, are ready to embrace it. And what is the motive? Answer me that question, you who sit with bloodless lips and shifting eyes--answer if you dare.

"There are some features of this Senatorial contest which would be ridiculous if it were not for its serious import to the people of this State. It has reminded me of a horde of hungry, skinny, long-tailed rats around a big cheese. Something falls in the room. There is a panic and a stampede and only seven have the courage to remain.⁶ As time goes on, their courage

⁵ Senate Report, Part II, p. 636; Butte Miner, Jan. 26, 1899.

⁶ Here Whiteside referred to the exposure and to those seven who voted for Clark on the first ballot anyway.

gradually returns; they smell the cheese, and one by one they timidly come out of their holes until the vanishing cheese is again surrounded and we can hear the chorus of 'Who's afraid?'

"I am not surprised that the gentlemen who have changed their votes to Clark recently, should make speeches of explanation, but I would suggest that their explanations would be much more clear and to the point if they would just get up and tell us the price and sit down.

"Mr. Garr stated in his explanation that he went over to Flathead County to consult with his constituents; but he might better have told the truth and said that he went over there to deposit a package of Clark's money with D. R. Peeler. Deny it, sir, if you dare!"⁷ (Pointing a finger at Garr.)

Connolly describes what followed:

"Garr was seen to rise slowly in his seat, his face now red as fire and again a sickly, yellowish white.

"'You are an infamous liar!' he shrieked. 'You are a perjurer!'

"Amid the uproar that ensued could be heard loud cries of: 'Give it to him, Whiteside,' 'Give it to him, Garr,' and the hands of many members went to their hip pockets. There were yells, screams, applause, and hisses, and one woman in the gallery fainted.

"After the roll on the vote for Senator had been called, Representative Garr broke down and cried."⁸

The speech of Whiteside, together with the report of the grand jury, came out in another article in the Miner as follows:

"Sensations came thick and fast today in the Montana Legislature. Before the members met in joint session to vote for United States Senator the grand jury reported that it had heard no evidence on which to return any indictments. For two weeks the grand jury had been faithfully investigating

⁷Speech of Whiteside at Joint Session of Sixth Montana Legislature, Jan. 26, 1890. Quoted by Connolly, op. cit., pp. 40-41.

⁸Connolly, op. cit., p. 41.

the charge of bribery made by State Senator Whiteside of Flathead County, when he dramatically turned over to a joint committee thirty \$1,000 bills, swearing to high heaven they had been given him and three others by agents of W. A. Clark, of Butte, to influence their votes in his favor for the Federal Senate. Whiteside repeated his story to the grand jury, and 33 other witnesses were examined on all phases of the matter. One of Whiteside's alleged co-partners in the vote-selling business repudiated him hotly and discredited him before the grand jury.⁹ Other contradictory and refutatory evidence was given, of such indubitable character that the grand jury could do nothing else than disbelieve Whiteside. The result was a sweeping and complete vindication of Hon. W. A. Clark of Butte. His integrity and political honesty are established by the report of the grand jury, and those who have been so ready with unsubstantiated charges of bribery made against his supporters are overthrown. Judge McIntire thanked the grand jury for their action and said he would have come to the same conclusion had he been on the jury.

"At the session of the Senate this afternoon by a vote of 14 to 9 Whiteside was unseated on a contest for his office and his Republican opponent given the seat. Whiteside's majority on the face of the returns was only one, and a recount of the votes by the Senate resulted in a reversal of the result. Nine Democrats and five Republicans voted to unseat him.

"In the joint session Whiteside made a long speech in which he made unsupported charges of bribery against every man who voted for Mr. Clark, but the effort fell flat on the audience. They knew the grand jury had disbelieved him under oath and it was understood he would be put out of the Senate in a few hours.

"He stated that he could prove that when Representative Garr went home to Flathead County, called there by sickness in his family, as he said, he went there to procure a package of money in the possession of a man to whom it had been paid for Garr.

"At this juncture Mr. Garr arose and violently denounced Whiteside as an infamous liar--a liar of the deepest dye, and there was a hot time for a while, but no serious results. Whiteside reached in his hip pocket, as if to draw a gun, but the weapon was not displayed.

"There was confusion in the hall for some time, but President Spriggs finally succeeded in securing order. Whiteside continued

⁹This was Garr--his testimony will be remembered.

his tirade of personal abuse. He said that from what he could learn it was his last appearance, and he owed it to his constituents, to the State, and to himself to denounce the bribers and bribe takers who had brought disgrace upon the State. He then announced that John E. Wellcome would be convicted of bribery, and that Clark would never go to the Senate...."¹⁰

From the above, it is obvious that the Miner was bent upon picturing Whiteside as a villain of the most malicious sort. Still another article appeared concerning Whiteside and Garr in the same vein. It was as follows:

May Have Meant Murder

Garr, an Old Man, Attacked by the Desperate Whiteside

"This morning early Whiteside went to the Grand Central, where Garr is stopping, abused him like a pickpocket, and would have struck him had not a bystander caught his arm. He told Garr that he would yet run him out of the State. His vicious attack on Garr in joint session was premeditated and intended to provoke a personal encounter. It is claimed that Whiteside was armed, and as he is desperate, there is no telling what might have occurred had a blow been struck. Whiteside is the most thoroughly detested man in the community, and as he has attacked the virtue of all women whose husbands, fathers, or brothers favor W. A. Clark, his absence from Helena would not be regretted.

"The action of the grand jury is endorsed by everybody in Helena, except by those who wear copper collars, Dave Marks¹¹ and Attorney General Nolan included."¹²

Whiteside could do little in answering this abuse, which continued throughout the entire session. These articles would almost make it appear that Whiteside himself was on trial and, indeed, he was more or less

¹⁰Senate Report, Part II, pp. 627-8; Butte Miner, Jan. 27, 1899.

¹¹Dave Marks was a Daily partisan and was Secretary of the Democratic State Committee.

¹²Senate Report, Part II, p. 629; Butte Miner, Jan. 27, 1899.

under a cloud. The grand jury, in exonerating Clark, had practically set aside Whiteside's testimony as though it were untrue. Whiteside determined to stop this bombardment on his character if it were possible. Through his attorneys¹³ he filed a suit against the Butte Miner on April 23, 1899. The complaint partially read:

"Plaintiff...alleges that by reason of the said false, malicious, defamatory, and unprivileged publication the plaintiff was injured in his reputation and to his damage in the sum of fifty thousand (\$50,000) dollars."¹⁴

On May 20, 1899, the attorneys¹⁵ for the Miner filed a demurrer moving to strike out portions of the complaint. Practically every statement that Whiteside had used as basis for his suit the Miner's attorneys cited as irrelevant, immaterial, or not libelous. Other statements were quoted as true and justifiable.

In the trial which followed, Whiteside received a judgment against Clark's paper, but he never collected any money. The Miner claimed to be, and practically was, libel proof. It could show at almost any time a condition that normally would be considered as bordering on bankruptcy. The Miner banked, of course, with W. A. Clark and Brother, Bankers, of Butte. At this particular time they claimed to have liabilities over and above their assets to the amount of some \$600,000. Consequently the judgment was worthless. It was the proud boast of the Miner that such bills were

¹³Whiteside used a splendid array of lawyers: Thomas J. Walsh, later United States Senator for four terms; Wilbur F. Sanders, the famous Vigilante; C. P. Connolly; and Emmett Callahan.

¹⁴Senate Report, Part II, p. 602.

¹⁵Among the attorneys for the Miner were Frank Corbett, Jesse B. Roote, John B. Wellcome, and E. Lowndes Maury.

never paid. The Miner was a corporation, and stockholders in such a business organization are not personally liable for its debts. This meant that W. A. Clark could not be held responsible.

Whiteside, in order further to protect his character, was instrumental in securing the disbarment of John B. Wellcome. The details of this will be given later.¹⁶

¹⁶See pp. 114-141 inc.

CHAPTER VIII

CLARK'S ELECTION TO THE SENATE

It is now necessary to notice the balloting for Senator during the session. One ballot was cast every day beginning on January 10 and ending on January 28, when two ballots were cast. No sessions were held on Sundays. It has already been mentioned that on the first ballot Clark received but seven votes. He was a poor fourth in that contest--in the count W. G. Conrad received 36 votes; Joseph K. Toole, 25; and Thomas C. Marshall¹, a Republican, 15. There were fifteen regular Republicans, four Silver Republicans, and one Populist in the Legislature. The other seventy-four members were Democrats, divided mostly in Clark and Daly factions, although some of them remained neutral.

On the second ballot Clark had 10 votes to Conrad's 38, Toole's 20, and Marshall's 15. The remaining ten votes on both the first and second ballots were scattered among five other men. The succeeding ballots are tabulated below. It is worthy of note that Clark gained steadily on every succeeding ballot with but one exception, when he received 25 votes on the sixth ballot and 24 on the seventh. It was necessary for any candidate to receive 47 votes to be elected. The mark (R.) after any name indicates that that particular candidate was a Republican; the others are all Democrats.

The remaining ballots were as follows:

¹For sketches of Toole and Marshall see Appendix II.

Third Ballot:

Conrad	35
Toole.	11
Clark.	21
Sanders (R.)	15

On that ballot it was noticeable that Clark had eleven more votes than on the second; this was the largest gain he made on any single ballot until the final one, which was the eighteenth.

Fourth Ballot:

Conrad	35
Clark.	22
Toole.	11
Sanders (R.)	14

Fifth Ballot:

Conrad	37
Clark.	23
Power (R.)	15
Toole.	8

Sixth Ballot:

Conrad	36
Clark.	25
Goddard (R.)	15
Toole.	7

Seventh Ballot:

Conrad	34
Clark.	24
Goddard (R.)	15
Toole.	8

Eighth Ballot:

Conrad	32
Clark.	26
Power (R.)	15
Toole.	8

Ninth Ballot:

Conrad	33
Clark.	28
Malone (R.).	15
Maginnis	5
Toole.	4
Fox.	5

Tenth Ballot:

Conrad	32
Clark.	29
Malone (R.).	15
Toole.	5
Fox.	5

Eleventh Ballot:

Conrad	33
Clark.	33
Marshall (R.).	14
Maginnis	5
Fox.	3

On this eleventh ballot Clark had finally climbed up until he had the same number of votes as Conrad. On the next ballot he (Clark) was to forge ahead and remain there until the finish.

Twelfth Ballot:

Clark.	36
Conrad	33
Hedges (R.).	14
Maginnis	6

Thirteenth Ballot:

Clark.	38
Conrad	31
Hedges (R.).	15
Maginnis	7

Fourteenth Ballot:

Clark.	39
Conrad	30
Grubb (R.)	14
Maginnis	8

Fifteenth Ballot:

Clark.	40
Conrad	30
Grubb (R.)	15
Maginnis	8

Sixteenth Ballot:

Clark.	40
Conrad	29
Leonard (R.)	16
Maginnis	6

This was the last ballot before the day of Clark's election; Connolly has described that day, calling it a "terrible day":

"The morning of Saturday, January 28th, dawned crisp and clear. The sunlight flashed on the hills surrounding the capital, making the great combs on the mountain-tops glisten like diamond crescents.

"A funeral pall hung over the Daly forces, while the Clark men, drawn and haggard from the strain of the long struggle, found relief in the fact that the die was cast and no power on earth could stay Clark's vindication. W. A. Clark's face was like that of a man crucified by suffering. His red eyes looked like the windows of a building within which a conflagration raged. Men who had barely slept for days and weeks had retired toward morning to snatch a few hours of rest. The wreck of battle was everywhere. Pencil memoranda, on which the prices of votes had been calculated, lay strewn upon the lobby floor of the Helena Hotel. The porters who were swamping the floor as the last weary stragglers were retiring to rest, picked up these bits of paper that told of reputations irretrievably lost--of compacts whose shame would haunt men year by year.

"The story of those eighteen days was a story of consummate strategy and desperate conflict. The legislators went down one by one, were fought for man by man. This man-hunting had its intoxication, and the chase once begun, it made its own impetus and developed into a kind of frenzy. If a man had a weakness in his nature or an exigence in his circumstances, Clark's generals found it. His debts, his indiscretions in conduct, his best sentiments, even, were turned into effective weapons against him. His business was threatened; his friendships

were menaced; his wife, his sisters, and even his mother were often made intercessors for his temptors. His old associates, his creditors, his family doctor were upon his trail."²

Many of those who witnessed the session say that the bribing with money was not the worst thing that was done in order to obtain votes. Many other more vicious practices were resorted to if money failed. If a legislator proved to be immune to the enticement of money but was known to enjoy the society of the opposite sex, then some beautiful woman would be constantly seeking his companionship, offering herself in an effort to obtain in return a vote for Clark. Houses of prostitution were chartered by the Clark forces, and any legislator who so desired might have a free ticket to enjoy himself at them, for the entire period that the Legislature was in session. Connolly further says:

"The emotional strain brought to bear on men was so heavy, the promises held out to them were so alluring, and the reward of honesty seemed so bleak, that no anchor could hold a man except the needs of his soul. If he lived by bread alone he went with the wind.

"How would that courageous band of Daly men act their part now [on this day of the election]? They were sullen, uncompromising, defiant foes. Like sailors who know the ship will sink within an hour, they stood with their arms folded. It was strange that on this morning no Clark man felt elation. It was not in the air. The battle had been too bloody. They had these poor voters now, like rabbits in a warren, and would slaughter without mercy; but there was no exaltation.

"As early as eight o'clock, crowds of men and women could be seen moving toward the temporary capital. At first they came in broken, irregular lines, and then in streams. Not one-twentieth of them could gain admission to the hall, but they stood outside the windows of the House of Representatives, and the streets were impassably blocket. Clark did not appear at

²Connolly, op. cit., p. 27.

the legislative hall, but John B. Wellcome, Charlie Clark, A. J. Steele, John S. M. Neill, and A. J. Davidson were there. The joint session met, the Senate filing in as the hour of ten arrived.

"The first order of business after the reading of the minutes was the balloting for Senator. The roll was called amid breathless excitement"³

and its result was as follows:

Seventeenth⁴ Ballot:

Clark.	41
Conrad	30
Leonard (R.)	15
Maginnis	6

On this ballot Clark was still six votes short of election. Then for the first time in the session a second ballot was demanded. E. C. Day, the leader of the Clark forces on the floor, moved that the assembly take a second ballot. State Senator Stanton, of Cascade, a Conrad Democrat, moved as a substitute that the joint assembly dissolve for the day. The clerk called the roll on the substitute, and it was lost by thirteen votes. The Clark forces had won their first open victory during the session. The roll call on the second ballot then began.

As the names of the various members were called, applause and hisses were heard. The excitement became intense. Charges of bribery were bandied back and forth upon the floor. The presiding officer rapped again and again for order, but in vain. As the men voted they were hissed and in

³Ibid., p. 41.

⁴Senate Report, Part III, pp. 1903-22, gives the entire election summary.

one or two cases the price the voter had received was shouted at him in round figures.⁵

Connolly gives an anecdote of Miles Finlen on the final roll call. He was a friend of Marcus Daly's of long standing. They had worked together in the mines in Nevada. When his name was called, Finlen rose to his feet and "shouted in stentorian tones:

"W. A. Clark!--

"There was consternation and panic among the Daly cohorts, and the friends of W. A. Clark broke into wild shouts of exultation. After the tumult had subsided, Finlen added in tones of derision:

"'of Madison County,' voting for the State Senator who had been instrumental in exposing the corruption of his namesake from Butte."⁶

The Legislature was stunned for a moment with this burst of grim humor but quickly recovered. There were some members who could still enjoy a good laugh.

The roll call was finally finished and the clerk announced the result which was as follows:

Eighteenth Ballot:

Clark.	54
Conrad	27
Marshall (R.).	4
Maginnis	7
W. A. Clark of Madison County.	1

This ballot gave Clark the election. He had received a clear majority and seven votes to spare. Eleven of his fifty-four votes had been cast by

⁵Connolly, op. cit., pp. 42-43.

⁶Connolly, op. cit., p. 43.

Republicans; without these votes Clark would still have been four votes short of the election.

As soon as Clark's election was declared by the presiding officer, there arose one wild prolonged cheer from the galleries; and the crowd filed into the street. Connolly describes how Helena celebrated:

"Helena turned out in force that night to celebrate the success of her candidate. Handbills were distributed during the afternoon. They read:

"There will be a hot time. Grand celebration tonight to endorse the election of Hon. W. A. Clark to the United States Senate. Procession. Fireworks. Meeting at the Auditorium. Everybody Welcome.

"At eight o'clock, the procession formed on upper Main Street, and soon after started on its march. For days the saloons and hotels of Helena had been ordering by telegraph quantities of champagne from St. Paul, Minneapolis, Spokane, Seattle, Portland, and San Francisco. All during Saturday afternoon and night most of the bars of Helena were free to the populace and no one was allowed to order anything but champagne. Clark's champagne bill alone for that night was said by one of his leaders to be \$30,000. Schoolboys were among the patrons of the bars.

"Senator Clark gave a banquet for his friends and supporters at the Helena Hotel on February 7th, and again there was intemperate revelry."⁷

Clark anticipated no further trouble. His victory meant a position in the United States Senate for six years. It was an unwritten law in the feud with Daly for each to accept the issue of every clash and abide by it stoically. But Clark's troubles were not over. Within three months after the banquet the attempt to disbar John B. Wellcome had been started, and

⁷ Ibid., p. 43.

in less than a year a committee of the United States Senate was investigating his questionable election.⁸

⁸A complete tabulation of those who voted for Clark, the amounts they received, and other information will be found in Appendix V~~8~~.

CHAPTER IX

THE DISBARMENT OF JOHN B. WELLCOME

The grand jury investigation had given no satisfaction to the accusers of Clark and Wellcome. Whiteside soon decided on more drastic action. He had predicted that Wellcome would be convicted of bribery, and that Clark would never hold a seat in the United States Senate. Wellcome's disbarment, and the Senatorial action of declaring Clark's seat vacant in 1900, was practically a fulfillment of his prophecy.

On May 5, 1899, two months after the Legislature had adjourned, Whiteside presented to the Montana Supreme Court a written accusation against John B. Wellcome, charging him with many instances of bribery during the legislative session and praying for his disbarment. This petition was received by the Court and Attorney-General C. B. Nolan¹, one of the ablest trial lawyers in the Northwest, was appointed to act as friend of the Court in the prosecution of the case.

The Supreme Court refused on the first hearing to entertain Whiteside's petition, because of the fact that it made charges of a grossly criminal nature and there was no showing why Wellcome might not be prosecuted and convicted of these felonies by trial at law.² The accusation had plainly said

"that for the purpose of securing the support of members of the legislative assembly to elect...W. A. Clark, John B.

¹See Sketch of Nolan in Appendix II.

²Connolly, op. cit., p. 198. See also Note, p. 198.

Wellcome assumed to and did act for, and in behalf of, W. A. Clark, and did, while so acting, solicit the members to vote...for W. A. Clark for money considerations."³

The petition then went on to state the various sums offered to the different members. Then finally it alleged that there was a conspiracy formed for the same purpose, the partners to it being, besides Wellcome, Charles W. Clark, A. J. Steele, W. M. Bickford, John S. M. Neill, A. J. Davidson, and "sundry other persons" unknown to the affiant. The judges of the Supreme Court were not anxious to have their tribunal turned into a common criminal court, trying common felons who should be handled in the lower courts.

Attorney-General Nolan filed an affidavit setting forth that, against his (Nolan's) protest, John B. Wellcome had been summoned and examined before the grand jury and therefore, under the laws of Montana, he could not be prosecuted; that after the grand jury had returned its findings refusing to bring in an indictment he, Nolan, had demanded of Judge Sidney H. McIntyre the summoning of another grand jury, which request the court had refused.⁴ Nolan appended to his affidavit a copy of the stenographic report of the testimony adduced before the grand jury.

Whiteside also filed an affidavit in which he alleged that the city of Helena and the County of Lewis and Clark were overwhelmingly favorable

³Senate Report, Part I, p. 38.

⁴Nolan pointed out that the grand jury was inconsistent and derelict in its duty if it did not declare either one way or the other and especially since there was \$30,000 of physical evidence which no one was willing to claim. He said that it made little difference to him what it did, but certainly it should either return an indictment against Mr. Wellcome for bribery, or else against Mr. Whiteside for conspiracy. See Nolan's Testimony, Ibid., Part III, p. 2090.

to the candidacy of William A. Clark, the reason for this sentiment being that the people of Helena felt that they were discharging an obligation to Clark, incurred through his assistance in selecting Helena as State Capital. Because of this showing, the Supreme Court three months later, August 1, decided to assume original jurisdiction of the disbarment proceedings. Wellcome had filed a demurrer, but this the Court overruled.⁵

The Montana Supreme Court at this time was composed of the Chief Justice, Theodore Brantly, and two Associate Justices, William T. Pigott and William H. Hunt.⁶ The only way to affect the decision would be either to corrupt one of the judges, or for the prosecutor (Attorney-General Nolan) to bungle the case so badly that it would have to result in an acquittal.

Connolly gives this view:

"Neither the judges themselves nor the members of the State Bar believed that even the most unabashed of the bribe-givers would go so far as to approach the Supreme Court. But Clark had determined to risk even this in defending his chief legal adviser. If he could prevent Wellcome's disbarment Clark himself was practically vindicated of the charges now made against him throughout the State, and self-interest as well as his obligations to Wellcome made it imperative that the Supreme Court should be influenced.

"On the fifth of August, four days after the Court had decided to assume jurisdiction of the case, Charlie Clark, Frank Corbett, and E. L. Whitmore went from Butte to Helena by special train. They arrived in Helena about ten o'clock, got into a carriage, and drove rapidly to the Montana Club, where they were in consultation with John S. M. Neill until nearly two in the afternoon."⁷

⁵Connolly, op. cit. See Note, p. 138. The overruling of the demurrer was on Sept. 3, 1899, and the case was set for trial on Nov. 6.

⁶See sketches of Brantly, Pigott, and Hunt in Appendix II.

⁷Connolly, op. cit., pp. 138-9.

These Clark adherents decided that the first man that they would try to reach would be Judge Hunt. Knowing that he was a poor man and not in the best of health at that time, they decided to try to reach him through his family physician, Dr. William Treacy. The doctor was a man of such high professional standing and was so universally respected and esteemed, that their choice was undoubtedly the most auspicious.

Judge Hunt told the story in his own words of how Dr. Treacy acted as the agent of Clark in offering a bribe:

"At about 12 o'clock Judge Pigott and I left our offices together...and walked down town toward the post office. We turned the corner beyond the door of the bank...I there met my wife, Mrs. Hunt, in a buggy, and she said to me...that Dr. Treacy had been trying to find me, and said he was very anxious to see me, and would like me to be sure and see him as soon as I could. 'Well,' I said, 'I will go right upstairs and see him.'"⁸

Judge Hunt had the preceding April been examined for life insurance by the doctor and had been rejected. He at once thought that maybe the insurance company had changed its mind and accepted him after all. He was soon undeceived.

"I went upstairs into the doctor's main office. The doctor was there. He invited me into a back room and shut the door. We sat down on a sofa together, and he halfway laughed and said, 'There is a funny kind of a proposition come up. I don't want you to think that I am talking to you about something that I ought not to talk to you about, but I take some interest in this Wellcome case.' I stopped him and said, 'Well, Doctor, that case is in court, to be proceeded with as any other case is.' 'Well,' he said, 'they tell me that it is not like an ordinary case; that it is not like deciding for or against a man in most lawsuits; that it is a matter of discretion in the court.'

⁸Senate Report, Hunt's Testimony, Part II, p. 1634.

"Well," I said, "I think it is a matter of legal discretion. The court can only do what its wise judgment tells him is within the bounds of a legal discretion and not an arbitrary one, and it has been proceeded with up to this point." "Well," he said, "I think it is a political fight, and Wellcome is a decent fellow, though I don't know him." I replied to that, and stated that Wellcome was a decent fellow; that we all knew him personally, we all liked him, and that it was an extremely painful sort of a lawsuit that was pending before us."

"He then said, 'I don't think there is any use of laying the proposition before you,' and I think he added...that he wished me to understand his position. 'There is a party over here,' said he, 'and they have got \$100,000. They want to put it up if that case can be thrown out of court.' ...'Why,' I said, 'Doctor, I would not for all the money that there is in the United Verde mines and the Anaconda mines together, together with every dollar that Daly and Clark have got, and all there is in the banks besides put on top of it, sacrifice my conscience to the extent of granting a man a continuance in a lawsuit to the extent of five minutes if I did not believe it was right. That case must go ahead. They do not know me, Doctor.' 'Well,' he said, 'I did not think there was any use of laying the proposition before you, and I want you to understand my position.' I said, 'I think I understand your position, Doctor,' and I looked at my watch. I left the office, took the car and went to my home."⁹

Thus ended Dr. Treacy's first interview with Judge Hunt. Of course it was entirely unsuccessful, but the Clark forces did not give up entirely. The doctor again saw Judge Hunt that same day just a little before six o'clock in the late afternoon. The judge continued his story:

"I went home on the half-past five car. When I got out in front of my house, I walked up toward it, and I saw Dr. Treacy's buggy and horse. The thought that flashed through my mind was that someone was sick--some of the children--so I hastened my steps and walked up and found the doctor and my wife...and my little baby sitting on the lawn.

"The doctor got up and advanced to me, and I said, 'How do you do, Doctor?' I saw at once that there was no sickness, or I would have been advised of it, and he walked toward the gate

⁹Senate Report, Hunt's Testimony, Part II, pp. 1634-5.

with me. When we got near the gate, he said, 'Those people say that they have got one judge of the supreme court.' I said, 'I do not believe it; who have they got?' 'They did not say,' said the doctor. Said I, 'Brantly...is out of the State. He is over on the Pacific coast; and moreover, he is an honorable man, and I don't believe that they could have got him; and as for Judge Pigott, if ever I saw in my life a high-minded, honorable gentleman, it is he.' He said, 'Well, that is what they say.'

"At this same interview...he took a memorandum book from his pocket and said, 'They say that Daly has assured you of reelection.' 'Why,' I said, 'assured me of reelection. What nonsense that is; ...Mr. Daly has never assured me of anything. I have no right to expect Mr. Daly to assist me in reelection, if I should become a candidate at all for reelection. He opposed me when I ran before. Our political affiliations are different. It is natural that he should oppose me, and I assume if I run again he will oppose me again. Doctor, that is undoubtedly told to you because of the friendliness existing between one of my children and Mr. Daly's little girl. They are intimate friends; have been for some years, and my child is now at Mr. Daly's place visiting his little girl. But,' I said, 'is there a fair-minded man in the world who would think ill of me because of the innocent fondness of two children for one another?' He said, 'No; nobody would pay any attention to it.'"¹⁰

The doctor then tried another subterfuge. He asked the judge if the grand jury could be called. Judge Hunt did not understand, so then Dr. Treacy said,

"Well, all that those people want is a fair show, and I told them that as far as you are concerned I had known you a long time, and that they could count on your being perfectly fair."

The judge answered that they had nothing in the world but his record to tell them whether he would be or not. The doctor reassured him that he knew that he would be--that he never saw a man to whom he would rather trust a lawsuit than him.¹¹

¹⁰Ibid., pp. 1635-6.

¹¹Ibid.

Judge Hunt told of the end of that interview--how Dr. Treacy tried to approach him from another angle, that of his health. The doctor said:

"But you know you ought not to be on that bench. I know that better than you.' He said, 'It will break you down; you cannot stand it.' I said, 'It is a very laborious position, Doctor, and if I could see my way clear to getting out of it I would be glad to do so, because it is a tremendous tax on my health and has been for some years.' Said he, 'I know that better than you. I would like to see you get the money, if you could do it honorably. You could take a rest--what you need--of a year. You could go abroad. You could visit the Paris Exposition. You need not feel worried all the time. It would build you up if you got out in the air--away from the air of that court-house, which is so badly ventilated. Why, it would make a strong man of you and prolong your life.' Well, I told him that it might, but there was no way in the world by which it could be done. I then said to him, 'Doctor, I have no heritage in the world except that of an untainted name, and I propose to leave that to those children.'

"He was then getting into his buggy and he said, 'Well'--and he repeated, 'I would not have you do anything that you did not think was right, but I would like to see you do well.' I said, 'I know you would, Doctor.' We bade goodbye to one another and he drove off."¹²

Judge Hunt did not see Dr. Treacy again to talk to him for over three months. It was about the middle of November, when the Wellcome case was still pending, that the doctor drew up his horse to the curb and asked the judge, who happened to be going down Main Street, to come over and speak with him. When Judge Hunt stepped over to the phaeton, the doctor began,

"I suppose there is no change of your mind come over you since last summer in respect to that matter?"

The judge answered,

"No, Doctor; no change of mind at all; I thought that had ended."

¹²Ibid., pp. 1636-7.

"Well," the doctor returned, "I just wanted to know."

Judge Hunt then replied,

"Well, it has ended, Doctor, so far as I am concerned. I claim no credit to myself at all. I am simply doing my duty in the matter, and I don't know how more forcibly to tell you than to say that I would not do it to save my own life or the life of my children."

Dr. Treacy said then, "I am glad that you have not changed your mind." As he made preparations to drive off, Hunt told him, "I knew you would be, for you know I am right."¹³

Judge Hunt admitted that Dr. Treacy fell considerably in his estimation because of these bribery attempts. Up to this time Hunt had thought as much of Dr. Treacy as of any friend that he had. When the doctor himself was quizzed concerning these interviews on the witness stand several months later, he didn't make a very good impression. His stories concerning the interviews themselves tallied in practically every detail with those of the judge, but the reasons he gave were asinine.

When asked why he approached Judge Hunt, he gave the following answer:

"The only motive that I had in the world was this. Now, there was rumor after rumor about the street. Everybody was talking about this Wellcome case and about the supreme court, and there was a good deal of talk about Judge Hunt which I did not believe; he probably more than any other member of the court, because he was the one member of what was always talked about in Montana by attorneys, as being the Daly or Anaconda supreme court, and he was probably more severely criticised than the other two members.

"Now there was nothing that would induce me to believe that Judge Hunt would accept money or anything that would influence his decision in any case whatsoever. I felt so deeply interested

¹³Ibid., p. 1337.

in him that I made up my mind to find out positively, to satisfy myself, whether he was all right or not, and I took this method of doing it."

He was then asked:

"You deliberately undertook, without any communication with anybody, to test his virtue and integrity as a judge?"

Treacy answered, "Yes; I did, and I am very sorry for it. That is all I have got to say."¹⁴

Under quite a rigid cross-examination Treacy stuck to that story-- that he was not an agent of W. A. Clark or any of the Clark faction to sound out Judge Hunt to see whether or not he was susceptible to the influence of money, and that he did what he did of his own accord. He was told rather sarcastically that that was certainly a peculiar way to treat a man in whom he had as much confidence as he said he had in Judge Hunt-- a man who was supposed to be one of his best friends, if not the best friend that he had. Treacy admitted that he had never acted in a similar manner with any other of his friends.

An attempt was made to connect Dr. Treacy in some manner to that special train. It was a singular coincidence that that train should arrive in Helena on the very day that Dr. Treacy would have two rather exhaustive interviews with Judge Hunt. But Treacy claimed that he had not seen any of the men who arrived on that train, nor was he acting for them. Treacy was probably not entirely truthful. One very shrewd question was asked Treacy with the intent of tripping him. It was:

¹⁴Senate Report, Treacy's Testimony, Part III, p. 1734.

"...do you remember saying to (Judge Hunt) that you were informed that there was a difference between the Wellcome case and an ordinary lawsuit between man and man, and that he could probably do things in the Wellcome case that would not be right and proper to do in an ordinary lawsuit?"

Dr. Treacy answered in the affirmative. He was then asked where he got that information. His answer was, "That's what I thought about it. I didn't know legally whether it was right or not...I thought it was a political matter."¹⁵ He had slipped out of this difficulty.

Dr. Treacy was also used to sound out Attorney-General Nolan. As in the case of Judge Hunt, the doctor was intimate with Nolan and was his family physician. It was not, however, until several weeks after the Supreme Court had overruled Wellcome's demurrer that Treacy talked to Nolan; that was late in September. Nolan told the story of this approach in his own words as follows:

"I met him (Dr. Treacy)...at the entrance of the Power Block where his office is. He came out of the entrance, and his buggy was by the sidewalk. He stated he would take me home. I got into the buggy. We had a distance of about a mile to go, and after we got out to Benton avenue he commenced to inquire about the Wellcome disbarment case. He wanted to know in what condition it was. I told him that the preliminary stages had been passed and that the case had been set for hearing on the 6th of November....

"He then mentioned the fact that if Mr. Wellcome were disbarred it would be a serious matter to him. I said I thought so, and he asked me whether I thought he was going to be disbarred or not. I told him that I hadn't any doubt about it myself; that I was in possession of evidence that it would not be possible for him to overcome, and I think I made the remark that soon after the 6th of November Mr. Wellcome would be doing something other than engaged in the practice of law. He said to me that there ought to be some money in the case for me. I told him I thought not. He

¹⁵Senate Report, Treacy's Testimony, Part III, pp. 1811-2.

said he thought differently; that undoubtedly Mr. Clark would be willing to put up some money in order to save Mr. Wellcome from the disgrace that would attend upon his disbarment. I said I did not think Mr. Clark or those who were operating for him would place any reliance upon me sufficiently to make an offer of money to me. Well, he said that so far as he was concerned himself, he could place reliance upon me, and that if I made any statement he would guarantee that it would be observed in every particular. I said I thought not; that undoubtedly they would labor under the impression that I would develop into a second Whiteside, and that if I got money it would be for the purpose of exposing it. Well, he said he didn't think so, and he said to me: 'How much do you think you would require?'

"I said: 'If I were to lend myself to the doing of this act, I think that I ought to be entitled to \$100,000. Don't you think so?' He said he thought so. 'Well now,' I said to him, 'Doctor, in the event that we arrange in this way, there is one thing that I should decidedly object to, and that is that the money should be turned over to a third person.' I said: 'A good deal of publicity has been given, at least so rumor has it, on account of the alleged purchase of the members of the legislative assembly.' He said he thought that could be arranged all right. I then said to him: 'How, now, in the matter of commission?...It is barely possible if you make this arrangement, and you get this money for me, that a big proportion would have to be paid to you as a commission.' He said no; that he could get me \$100,000 without any reduction. He mentioned the fact, likewise, that, so far as he himself was concerned, he could secure a commission on the outside and of sufficient amount so that he could afford to go to California without suffering any pecuniary embarrassment.

"About this time we got almost to the house, and I about reached the conclusion that he was in earnest respecting the matter, and I said to him: 'Doctor, I don't know whether you are in earnest about this thing or not, but if you are, I want you to take this message from me to Mr. Clark.' I said: 'Tell him from me that he is a dirty, contemptible dog. He has labored under the impression that every man has his price. He and his friends have proceeded upon that assumption thus far; but you tell him from me that I am poor; I expect to be poor, in office or out of office; I think that I can make a living in any country out of my profession; and if his shriveled body were skeletoned and filled with gold it wouldn't be any inducement to me.' I said: 'Further, tell him that if his united property were gold instead of copper, and he made a title deed of the property to me, he couldn't reach

me within 60 miles.' I said, 'This may be startling intelligence to him, but it is true, nevertheless.'¹⁶

Nolan then got out of the buggy, and the doctor drove off without attempting to reply.

The next time that the Attorney-General saw Dr. Treacy was about the 5th or 6th of October. The doctor again mentioned the disbarment proceedings, telling Nolan that he thought he was foolish. He said,

"If this was an ordinary case in court, it would be disreputable for you, Nolan, to accept a proposition of this kind; but it is not. It is a political fight, and you might as well make some money out of it as not."

Nolan replied that he didn't want to make money in that way, to which the doctor countered:

"You might as well make it as not, because you will get the name of being bought anyway. They will charge you with being bought by the Daly crowd."

Nolan answered:

"Well, so far as that is concerned, I at least will be in a situation to feel myself that there is no foundation to the claim."¹⁷

Here the conversation ended, but Dr. Treacy actually had one more conversation with Nolan, just about four days before the opening of the trial.

Nolan told of the interview:

"He (Dr. Treacy) was standing in front of a gentlemen's furnishing store, next to the post office. I was going by about 2 o'clock in the afternoon, going in the direction of the court-house, and he was standing there. Just as I was going by he said, 'Well.' I stopped, and as I stopped he

¹⁶ Senate Report, Nolan's Testimony, Part III, pp. 1670-1.

¹⁷ Ibid., pp. 1671-2.

backed up against the wall, and I made a few advance steps and got up to him, 'Well,' he says, 'how is it?' I do not know how I got the impression, but intuitively I felt that he was referring to the Wellcome case. I said, 'The clans are gathering.' A number of witnesses had been in town, and I believe some of the attorneys representing Mr. Wellcome and Charlie Clark. 'Well,' he said, 'have you thought about that matter again?' I said, 'Yes.' 'Well,' he said, 'what are you going to do?' I said, 'I will be brief with you, Doctor. I will state just exactly what my proposition is. I will say to you to put up or to shut up'; and he said, 'do you mean it?' and I said, 'I do.'

"He said, 'If you come to my office this afternoon at 4 o'clock arrangements will be made so that you can get your money.' I said to him, 'Doctor, do you recollect a message that I imparted to you at the time I first had a conversation with you?' He said, 'Yes.' 'Well,' I said, 'I am still of the same opinion,' and I left him and that was the end of it."¹⁸

Nolan previously had pointed out that, since he was in possession of so much incriminating evidence, if he didn't make a good case the public would be suspicious of a betrayal; but the Clark forces--at least Dr. Treacy--seemed to have confidence in his dexterity.

Dr. Treacy on examination admitted that he told Nolan that he'd "better get \$100,000 out of this and retire and quit the business," but he explained it as being a "pure josh entirely" upon his part. Yet Dr. Treacy was not in the habit of joshing--he was usually quite serious. He tried to intimate that Helena was full of rumors and gossip derogatory to both Judge Hunt and Colonel Nolan, but when pressed he could not name a single person who had ever conversed with him about either of them. He said that he and Nolan had always been good friends--that he had joked with him a great deal, "when Nolan had been drunk, and when he had been sober."¹⁹

¹⁸Ibid., p. 1672.

¹⁹Senate Report, Treacy's Testimony, Part III, p. 1795.

One other significant thing happened at this time. The doctor owned eighty shares of stock in the American National Bank in Helena which had paid no dividends for several years following the panic of 1893. He had paid par value, \$100 a share. He had been attempting to sell out for some time, even below par, but he had been unable to find a buyer. Suddenly during the summer of 1899 he sold this stock to A. L. Smith, the president of the Montana National Bank, for \$8,000, which was par value! It was believed that Clark was at the bottom of this transaction because Smith had practically refused to buy it before, but the doctor claimed that he didn't know whether Smith bought it for himself or someone else. At any rate, six months later, January 1, 1900, no transfer had yet been made on the books, and the Doctor collected \$160 in dividends which he claimed he turned back.²⁰

When the conferees²¹ at the Montana Club found out that Dr. Treacy had not been successful in his attempt to bribe Judge Hunt, they had to decide upon some counter-stroke to ward off any suspicion of wrongdoing by the Clark faction. Frank Corbett was selected to see Judge Pigott and perform this delicate task. Judge Pigott told the story of this extraordinary interview in which Corbett showed himself to be an excellent actor:

"I was standing in the doorway of a fruit shop, which is opposite the Montana Club building, in a somewhat diagonal direction...I saw crossing from there...a man whom I thought was Mr. Corbett. I went up to him, as soon as I recognized

²⁰Ibid., pp. 1812-14.

²¹The conferees were Charlie Clark, Frank Corbett, E. L. Whitmore, and John S. M. Neill.

him, and said, 'Corbett...I am glad to see you. Judge Hunt and I only this morning were speaking of you, and we agreed that it was always a pleasure to meet a man as frank, honest, and sincere as you are.' He said, 'You and Judge Hunt think I am a frank man?' I said: 'We certainly do.' We were speaking, of course, in a semi-jocular vein; but we, of course, meant it. He walked with me then for about 100 or 125 feet... Then he turned to me...and said to me: 'Pigott, I want to see you. Can I have a private talk with you?' I said at once: 'What about?' He said, immediately, in a bluff, not unkindly, but excited manner: 'It is none of your ___ d___n business.'

"He followed it up immediately, in a very excited way--he seemed to be laboring under intense excitement--by saying, 'I have heard today something about you that I don't believe.' I said, 'I can't imagine what it can be, Corbett.' He said: 'I just left a man, after calling him certain names, among others, a liar'; he applied opprobrious epithets to the man--'and,' said he, 'I told him that if he ever spoke to me again I would knock him down.'

"...I replied: 'Corbett, I regret that you felt called upon to get into any trouble on my account, and I cannot imagine what could have been said that would warrant such a conversation or talk upon your part.' 'Well,' he said, 'I thought I would tell you about it.'"²²

But Corbett seemed rather reluctant to tell the judge just then. He pleaded that he had some business to transact "up the street." Judge Pigott, however, urged Corbett to tell him immediately, insisting that he felt he had a right to know, since Corbett had indicated that it had occasioned such an outburst. Corbett finally agreed. The judge continued the story:

"We walked up to the...temporary capitol building, talking about indifferent matters on the way, went into my private room, and shut the door. He sat down opposite me. He said: 'Don't get angry at what I am about to tell you, because I told the man who said it that he was a liar, and several other names'--

²²Senate Report, Pigott's Testimony, Part III, pp. 1652-3.

applying the same opprobrious epithets to him that he had told me of.²³

"[Corbett] then said, 'I have known you since you were a boy. I have known Judge Hunt for a long time also. I know that you and Judge Hunt are honorable, straight men.' Then he spoke...that Judge Brantly, he believed, although he did not know him so well, was an upright honorable judge and man... Then he said: 'Last night I was standing on the street in Butte with a man, at about half past eight...when a telephone message came from Helena from Mr. John S. M. Neill, in which Neill said, "We can do business with the supreme court."' Mr. Corbett then said...that he at once denounced Mr. Neill for entertaining such an idea; and that he made arrangements at once to get a special train to come to Helena for the purpose of putting a stop...to such an outrageous proceeding.

"He said he had arrived at Helena on the special train at 10:30 o'clock on Saturday (the next) morning, went immediately to the Montana Club building, where he met Mr. Neill, and spent the time intervening between 10:30 and a little before 2:00 talking to [him]. He said that he told Neill...that he had to stop such talk...I said to him, 'Corbett, you do not mean to say that Mr. Neill told you that business could be done with the supreme court, in the sense that the supreme court could be bribed in this Wellcome case?'

"He said, 'He certainly did; and I have come to you to let you understand that if Neill does make any offer to you or to Judge Hunt it will be against our protest; if he does do it and I find it out I shall get up in the supreme court and disclose all that Neill has said to me; and,' he said, 'in any event, whether he discloses it or not, whether he approaches you or not, I have a great mind to arise in the supreme court and tell what I know about this dastardly attempt.'

"I said to him: 'Corbett, it seems almost incredible, but you may rest assured that if Mr. Neill ever approaches me with such a proposition you will never know it, nor will it ever become public, for I consider such an attack upon a man's honor even more serious than an attack upon his life'...I said also

²³At this point in the investigation, Senator Chandler interposed the suggestion that he supposed they were such epithets as were freely used in Montana. Judge Pigott replied yes, that Corbett anathematized the offspring of a female of the canine species, and other things of that sort. Senate Report, Part III, p. 1633.

that I would endeavor, if I did not have anything else...to use the instand upon him; that I would never have a man arrested for a thing of that kind; I would not want the publicity; I would want no one to suspect that someone else thought that he could approach me upon such a subject. He said: 'Yes, I knew you would feel that way. I knew it; and I simply wanted you to know that we had had nothing to do with this at all.'"²⁴

But Corbett did not stop with this. He told Judge Pigott of a fantastic way that he was going to treat Neill when a \$25,000 mortgage on the Independent Printing Plant would come due on or about the 25th of that same month (August). Corbett was holding this mortgage. According to Pigott, Corbett said:

"When it falls due, I shall go to the office of the Independent at 12 o'clock noon. I shall say to Mr. Neill: 'That mortgage is due. You must have the money here at one o'clock or the sheriff will take possession.' I will wait until five minutes of one. At five minutes of one I will go to Mr. Neill again and I shall say to him: 'The sheriff is below. If the money is not paid in five minutes the property will be taken in and sold.'"²⁵

Corbett also made another interesting observation. He said that if he were on the bench and any proposition of bribery were made to him by a party to an action or proceeding, or by any of that party's friends, he would decide the case against the party for the reason that he could not disassociate the idea of the man's innocence, or of his right to recover, if it were a civil case, from the impression that would be made upon him by the offer improperly to influence the judge.²⁶ The two men left the

²⁴Senate Report, Part III, pp. 1652-4.

²⁵Ibid., p. 1655.

²⁶Ibid.

office together shortly before 4 o'clock. Judge Pigott went with Corbett a little way down the street. At about 4:30 the judge saw Corbett leaving the Montana Club in the company of two other men, who were probably Charlie Clark and E. L. Whitmore.

Judge Pigott had no suspicion regarding the interview until that evening when Judge Hunt apprised him of the interview with Dr. Treacy. Then it dawned upon him why Corbett had acted the way he had. It was a subterfuge to throw discredit upon Neill since it could make little difference to him, and to disavow in the name of the Clarks any bribery attempts. Judge Pigott and Judge Hunt were both very fond of Corbett. They admired his brilliance and felt that he was one of the coming lawyers of the State. They were sorry to see him mixed up in this affair, lending himself to questionable intrigue.

Corbett's statements concerning his trip to Helena are entirely from Pigott's story. He denied that he had received a telephone message the night before from Neill. He claimed that he did not meet Dr. Treacy until the following November. He admitted that he had had an interview with Judge Pigott, but they had only talked about some various law suits that had already been decided and some others that were on the calendar. He also admitted that he saw Neill at the Montana Club, but only long enough to speak to him.

When asked about the special train, Corbett indicated that he had a desire to see the other members of the counsel for Wellcome; that they simply wished to stand upon the demurrer and let the supreme court take its course, but that he was anxious to file an answer before their allotted

time was up. The answer was actually filed. He also said that a special train was necessary because Charlie Clark had to get back early that evening in order to keep an engagement as he was "entertaining a party up at the lake."²⁷

The mortgage upon the Independent Publishing Company was not arranged so as to be in any way harmful to John S. M. Neill. A new note was signed and a new mortgage was executed and recorded. Clark had put up the money for the Independent, and he was not foolish enough to offer the Independent for sale at auction under the sheriff's hammer, when it was one of his most loyal and earnest supporters.

John S. M. Neill testified later that he had never sent either a telephone or a telegraph message on the evening of August 4, 1899.

Chief Justice Theodore Brantly was only sounded in a very adroit way. No bribe was actually offered him--in fact, money was not mentioned. Brantly and W. A. Clark were both trustees of a small Presbyterian co-educational college located at Deer Lodge, Montana. The president of this school, Rev. Albert B. Martin, was the man Clark decided should talk to the Chief Justice.

Clark wrote Rev. Martin a short letter, telling him what he wanted him to do. Rev. Martin was in no position to refuse Clark had he wanted to, but he did not want to as he was rather fond of the Senator. Clark had made contributions to aid the college. He donated \$5,000 on one occasion for a laboratory and usually donated an average sum of \$2,000 a

²⁷ Senate Report, Corbett's Testimony, Part III, pp. 1902-8; also Part II, pp. 1392-1400.

year for running expenses. The letter was as follows:

General Office of William A. Clark

Butte, Montana, Oct. 7, 1899

Dear Mr. Martin:

If you could see our mutual friend Judge B., and relate to him what John R. T. told you outlining the plan of their campaign, which manifestly showed that everything was pre-arranged, I am sure he would have a better understanding of the Wellcome proceedings and not allow that splendid man to be distarred. He has a lovely wife and children, and it would be a shame that they should suffer the disgrace on the evidence of two such disreputable men as Whiteside and my namesake from Madison Co.

Yours sincerely,

W. A. Clark

The story concerning John R. T. who was John R. Toole, a Daly partisan, was merely about a conversation Rev. Martin had one day with his host when he was a guest at Mr. Toole's house for dinner. The subject of Mr. Clark came up in connection with donations to the college, when Mr. Toole said he must go over and fight him, mentioning other good Democrats whom he would be willing to see go to the United States Senate. Among these Mr. Conrad and Mr. Matts were mentioned. Mr. Toole also mentioned that he had heard rumors about Mr. Clark offering \$10,000 to various members of the Legislature to secure their votes; that when they met in Helena, if he could trace the matter, he was immediately going to have an investigating committee appointed to ferret it out.²⁸

²⁸ Senate Report, Martin's Testimony, Part III, pp. 2025-7.

As can be seen, Senator Clark in his letter adroitly hints that the Whiteside exposure was a "Daly conspiracy," and if Judge Brantly could be made to see that, maybe Wellcome might not be disbarred.

Rev. Martin also had a personal interest in not having Wellcome disbarred. Concerning it he said:

"I had never met Mr. Wellcome at that time [Oct. 7, 1899], but Mr. Wellcome's father-in-law is an honored Presbyterian minister, indeed, an old pioneer missionary, and I was very much interested in him, and am now, and I was very anxious to save the family and Mr. Russell, particularly, any further humiliation."²⁹

About a week after Martin had received Clark's letter, he took a trip to the eastern part of the State to see some young ladies who might be interested in coming to his school. On the way back he stopped at Helena and saw Judge Brantly. The Judge related this meeting:

"It was on Monday morning, if I remember. I met Dr.³⁰ Martin on the sidewalk as I went to the court-house. He told me that he would like to see me for a few minutes. I asked him to come into the office. He walked in with me and sat down...He thereupon took a letter from his pocket and said, 'Read this and then I'll talk to you.'"³¹

Judge Brantly then read Clark's letter, after which he said to Rev. Martin:

"I am only one member of the court and I could not control the action of the court if I would, and would not, under any

²⁹ Ibid., p. 2026.

³⁰ The doctor's degree had never been conferred upon Martin by any college for either medicine, philosophy, or theology. He was called this mainly because of the position he held, most people not stopping to consider whether or not he was actually entitled to it.

³¹ Senate Report, Brantly's Testimony, Part III, p. 1736.

circumstances, if I could, because the case is there, and like any other case it will have to be tried on its merits and disposed of on its merits."³²

The subject then came up between the men as to whether or not the court was biased against Mr. Wellcome. This was strongly hinted in the newspapers. Concerning this Judge Brantly said:

"There seems to be an idea out that the court is prejudiced against Mr. Wellcome; but, Doctor, that is entirely a mistake, because while I cannot speak for the court in other matters I think I can in that regard. There is no prejudice against Mr. Wellcome. Individually you know that I know the family; you know our relations; and of course you could not impute any prejudice to me; and I can say that the other members of the court have no more than I have. But that amounts to nothing except so far as to give the assurance that he shall have a fair trial on the facts and the determination reached according to the merits. That is all I can say."³³

Rev. Martin could not understand why the case should come to the Supreme Court first; he pleaded for the case to go through the regular channels of the lower courts of Silver Bow County. He did not understand apparently that the action of the grand jury in the Whiteside exposure had made it impractical if not entirely impossible to pursue that course. Judge Brantly merely told him that the case would be in the Supreme Court before it ended anyway and cited to him the statutes bearing on the subject.

Rev. Martin explained his position, because the talk veered around to the subject of bribery. The judge said that he knew there were rumors on the street about Mr. Clark's buying the supreme court, but that of course the court had not been approached; he further stated that no person would dare to go to the court with any such suggestion.

³²Ibid.

³³Ibid., p. 1737.

At this juncture Rev. Martin, fearing that Judge Brantly might consider that Clark's motives or even his own might tinge of corruption, plainly said,

"Now, Judge Brantly, you can see from this letter that there is no suggestion or intimation of money, but it is a kindly letter written on the part of Mr. Clark on account of Mr. Wellcome's family, and I am only interested insofar as Mr. Russell [is concerned]." ³⁴

Rev. Martin always defended himself in regard to this interview; it may be that he didn't know or realize that he did anything improper. But Martin was an extreme Clark partisan. Clark's donations to his school made it almost impossible for him to be otherwise. When he later discovered that Judge Brantly did not take any too kindly an attitude concerning it, Martin claimed he was indignant. He said:

"I had no sort of conception that I was doing anything but a kindness to Mr. Russell and his family, and I had no conception that I was doing an unworthy thing...It seems to me that if Judge Brantly had this feeling, both of us being officers of the same lodge, members of the same church, he ought to have suggested to me the indelicacy at least, of my making those remarks to him; but there was absolutely no intimation or suggestion about indelicacy; indeed it was a very friendly interview from beginning to end." ³⁵

The disbarment trial began as scheduled Monday morning, November 6, 1899. The prosecution, which was actually the State of Montana, even though Fred Whiteside was the petitioner and affiant, was represented by Attorney-General Cornelius B. Nolan, who was shrewd, able, and clever. He went into this contest with the absolute confidence that he was going to win.

³⁴Senate Report, Martin's Testimony, Part III, p. 238.

³⁵Ibid.

He was in possession of evidence that could not help but bring about that result.

Wellcome was also represented by very able counsel. Four lawyers aided in his defense: E. C. Day, the Helena leader of the Clark forces in the famous sixth session of the Montana legislature, William Wallace, Jr., Jesse B. Roote, and Frank Corbett.

The proceedings lasted until November 17, 1899, when both sides rested the case. During those November days a large number of witnesses were mercilessly examined and cross-examined. The real burden of the proof that Wellcome was actually guilty of bribing the legislators rested upon the testimony of Whiteside, W. A. Clark of Madison County, and, to a lesser extent, Henry L. Myers. They told the same story of the exposure that they had already related to the investigating committee and to the grand jury. Whiteside and Clark were remorselessly heckled by Wellcome's lawyer in an effort to impeach their testimony. The defense resorted to the use of character witnesses in an effort to show that Whiteside and Clark had bad reputations and characters. If this could be shown, then the court would be asked not to disbar Wellcome on evidence given by such disreputable characters. This would have weakened the case for the prosecution.

On cross-examination those who had testified to the bad character of Clark of Madison were found to be people who had a personal grudge, and that was usually because Clark had beaten them previously in a law suit. In regard to Whiteside, it was found that the witnesses who testified against him had either not liked him because of labor difficulties³⁶, or

³⁶Whiteside, in private life, was a contractor who hired and fired large numbers of carpenters, brick layers, hod carriers, cement workers, etc.

were rabid supporters of W. A. Clark, and that Walter M. Bickford had induced them to come to Helena to testify as they did.

To offset this seeming advantage, the prosecution got six other witnesses for each of the two men to testify as to their good character. Clark of Madison had some very eminent men testify as to his good reputation and character, among them the Governor of Montana, Robert B. Smith, Henry N. Blake, a former Chief Justice of the Supreme Court of Montana, and former United States Senator Wilbur F. Sanders. So far as Whiteside was concerned, it was not possible to obtain such prominent people to speak in his favor; also, on cross-examination, many of his partisans declared that since the exposure some people had not kept their former good opinion of him.

The defense subpoenaed some witnesses to testify as to Wellcome's good character. This was not difficult to do since, regardless of what Wellcome may or may not have been guilty of, he was universally well liked and respected. The prosecution merely confined its cross-examination to compelling these witnesses to admit that they were characterizing Wellcome as he had been known to them before the last meeting of the Legislature.

Many others were called: other members of the Legislature, bankers, and even men of the Clark faction who were little more than go-betweens or look-out men. The defense tried hard to show a Daly conspiracy and improper use of Daly money. John R. Toole was thoroughly examined and cross-examined as the leader of the Daly faction. He was told that he had been known as the political manager of the Anaconda Company, but Toole answered

that such an idea was absolutely preposterous.³⁷ He further denied the existence of any confederacy by the Daly cohorts to dominate the politics of Montana on a "rule or ruin" basis.

Frank Corbett in his testimony attempted to hint at a "Daly conspiracy." He pointed out that Marcus Daly told him that

"if Clark shows his head in that Legislature or if he is nominated you fellows will hear something drop which will drive Clark and his friends out of politics in Montana forever, and will drive some of them to the penitentiary."³⁸

Even Colonel Nolan himself was compelled to take the stand and testify that the State Treasurer was paying the expenses of the witnesses summoned by the prosecution; and that there was no money for the purpose but that it would likely be appropriated by the next Legislature.³⁹

Wellcome himself remained in the court room day after day but refused to take the stand in his own defense. His lawyers had entered a plea of not guilty for him. There were two reasons why Wellcome did not testify: the reason he gave and the reason he did not give. He said that the supreme court was prejudiced against him and that his own testimony would have accomplished nothing whatever in his favor.⁴⁰ He said this regardless of the fact that Brantly had denied any bias, and that Justices Hunt and Pigott were known to be as fair men as ever sat in judgment on a case.

³⁷Senate Report, Wellcome Disbarment Case, Toole's Testimony, Part I, p. 372.

³⁸Ibid., Corbett's Testimony, p. 233.

³⁹Ibid., Nolan's Testimony, pp. 222-4.

⁴⁰Ibid., Wellcome's Testimony, Part III, p. 1988.

At this time preparations were being made to contest Clark's election in Washington. The Clark forces did not want Wellcome to testify, because had he said anything of any importance it would have been used against Clark in the capital. It was the general belief that this was the real reason why Wellcome did not testify.

Wellcome's attorneys did nobly in his behalf, but all to no purpose. The evidence against him was convincing and overwhelming. To disturb this man was one of the saddest duties that ever devolved upon the supreme court. In reading his decision, Judge Brantly rebuked the men that had entrapped Wellcome, pointing out that as lawyers they should have warned Wellcome, instead of encouraging him to disobey the law.

It was the general opinion that, since Wellcome had gotten himself into such a terrible plight in the service of Clark, the latter should compensate him enough in order to make him more or less independent. It was generally believed, however, that no satisfactory settlement was ever made between the two men, and that Clark haggled unnecessarily about the amount that should have been paid.⁴¹ Nevertheless, Wellcome remained true to the interests of Clark. His friends said he had done enough for the Senator, without committing perjury, and that he would never do that. But he did that very thing just the same.⁴²

Wellcome was never readmitted to the bar in Montana, so instead turned his attention to stock raising and general ranching at which he

⁴¹Connolly is of this opinion; see p. 203.

⁴²Senate Report, Wellcome's Testimony, Part III, pp. 1354-74.

was fairly successful. This passed into comparative oblivion John B. Wellcome--a pawn in the game to be moved about on the chessboard of Clark's political ambitions.

CHAPTER X

THE SENATORIAL INVESTIGATION

It was a fatal mistake for Clark and his adherents to intimate that the Whiteside exposure was a Daly conspiracy--that the \$30,000 which was turned over to the legislative investigating committee was Daly's money. It had been a sort of an unwritten law or agreement between the two factions of the Democratic Party that, when a contest was won or lost in Montana, it was to go no further--that Clark and Daly would both abide by the decision and let it go at that. But this time Daly refused to accept the verdict of the Legislature. "You can't pass a charge like that by," Daly said when he returned from New York in February. "He's gone too far this time. He said I put up that money. Let him prove it. We'll take this thing to Washington."¹ And Daly kept his word.

On March 4, 1899, Clark presented himself for the oath of office in the Senate Chamber. He had scarcely taken the prescribed oath, when his colleague, Senator Thomas H. Carter, presented two memorials to the Senate asking that it investigate his election and declare it void, deny him his seat, and declare it vacant. Nothing was done until Congress met in regular session on December 4, 1899, at which time Carter again presented the memorials which were referred to the Senate Committee on Privileges and Elections.

¹Connolly, op. cit., p. 43.

The first memorial was from certain members of the Montana Legislature, mostly Daly partisans. It protested against Clark's retaining his seat in the Senate and attempted to show that he had been elected by means of bribery and corruption. It also contained the testimony of Whiteside, Clark of Madison County, Myers, and Albert J. Campbell that was given before the legislative investigating committee. It was signed by State Senators Whiteside, Clark of Madison County, Eggleston, Anderson, Myers, Campbell, and Courtney; and Representatives Stiff, Finlen, Watson, Madden, Toole, Baylow, Fitzpatrick, Warren, Burke, Gall^Wwey, Crutchfield, Cooney, Stephens, Wilson, Lewis, Lamb, Kelley, Murray, Normoyle, and Matts.

The second memorial was from certain citizens of Montana. It gave a list of the members of the Legislature who had been corruptly influenced into voting for W. A. Clark for Senator for various sums of money and stated the amount each had received for so doing.² There was also included a list of those members who had been offered money and the amounts offered but who had refused to accept it. It was signed by the Governor, Robert B. Smith; the State Treasurer, T. E. Collins; the Speaker of the House, Henry C. Stiff; the State Auditor, Thomas W. Poindexter; Congressman Albert J. Campbell; and Ex-Congressman Charles S. Hartman. Appended to this memorial was the synopsis of evidence taken before the grand jury; the entire testimony in the Wellcome disbarment case; and the deposition of W. A. Clark in the suit of Fred Whiteside against the Miner Publishing Company.

²For a tabulation of this see Appendix V. The first and second memorials are in the Senate Report, Part I, pp. 1-400, Senate Document, No. II.

The Committee on Privileges and Elections upon receiving the memorial decided to investigate the charges. The specific and definite task for the committee was to probe into the conduct of the Legislature. In addition to the Whiteside exposure, the conduct of the Legislature between the dates of January 10 and 28 had to be probed thoroughly. During that time Clark and his agents had been active; in those eighteen days his votes had risen from seven to fifty-four; and of the fifty-four, eleven were by Republicans. According to the memorial those forty-seven votes were procured within eighteen days at a total cost of \$431,000, which did not include the \$30,000 turned over to the Montana investigating committee by Whiteside.

The committee began its investigation on January 5, 1900, almost exactly one month after the opening of Congress. The examining and cross-examining of witnesses continued until April 6. During these three months the testimony taken filled three large volumes. The committee was composed of the following Senators: William E. Chandler of New Hampshire, chairman, George F. Hoar of Massachusetts, Jeter C. Pritchard of North Carolina, Julius C. Burrows of Michigan, Louis E. McComas of Maryland, Donelson Caffery of Louisiana, E. W. Pettus of Alabama, Thomas B. Turley of Tennessee, and William A. Harris of Kansas. Chandler, Hoar, Burrows, McComas, and Harris were Republicans; and the others were Democrats.

The attorneys for the memorialists were Former Senator George F. Edmunds, Judge J. M. Wilson, Congressman A. J. Campbell, and Former Congressman Charles S. Hartman. Judge Wilson was taken suddenly and seriously ill and consequently unable to take part in the investigation. His place

was taken by Mr. Arthur A. Birney, a distinguished lawyer of Washington, D. C. Senator Clark was represented by Former Senator Charles J. Faulkner of West Virginia and Mr. Roger Foster of New York.

Marcus Daly had made good his threat. He had "taken this thing to Washington." He aided the memorialists in prosecuting the case in every way possible, even to taking the stand and testifying. He admitted that his prosecution of Clark at Washington was not actuated by any high public motive. He testified that while the evidence against Clark was being secured, he lay seriously ill in New York; and he said that he knew neither what money was spent in ferreting out the evidence, nor the means by which results were achieved. He had given instructions to furnish such money as was needed. He denied that he knew anything of the employment of detectives.³

Congressman Campbell, for the memorialists, had used questionable tactics in preparing the evidence. It was he who had hired the detectives⁴, opened letters sent from one Clark supporter to another, and on

³ Connolly, op. cit., p. 207. In his testimony, Daly said he did not believe in employing detectives--that he was opposed to them in any shape, that they were unreliable and bad things to fool with. See his testimony in the Senate Report, Part III, pp. 2218-9.

⁴ The principal detective hired by Campbell was Mr. L. D. McLean who was connected with a detective agency in Minneapolis. It was McLean's duty to ingratiate himself with the Clark people in Butte and make regular reports to Campbell, who was anxious to get all the evidence against them that he could locate. See Campbell's testimony in Senate Report, Part III, pp. 2387-8 and 2440-5. McLean was successful to a certain extent, but the communications between him and Campbell were placed in evidence by the defense. While this injured the cause of the memorialists, it did not in any way affect the final verdict.

one occasion had even entered Walter M. Bickford's room in the Finlen Hotel in Butte, having obtained the key from the proprietor of the hotel, a Daly partisan.⁵

But Daly on his own initiative made a shrewd move as evidence of good faith. He offered the books of his mining companies, as well as his own private accounts and vouchers, covering a period of five years, for the inspection of the committee. This offer effectively met Clark's sworn declaration that he (Clark) had destroyed all vouchers covering the period of his campaign. Nevertheless, in "taking this thing to Washington," Daly had spent considerable money. His expenses in the prosecution of the case, including lawyer's fees, amounted to \$40,000.⁶

Daly did not live long after the investigation--he lived to see Clark denied the fruits of his election and practically be compelled to resign from the Senate, but he died before Clark was elected for a full six-year Senatorial term in 1901.

⁵ Ibid. See also Campbell's testimony in Senate Report, Part III, p. 2391. Campbell also read a letter addressed to Jesse B. Roote and written by Bickford. Ben Hill had been instructed by Bickford to take it to Roote; but Hill stopped at Campbell's offices, opened the letter and permitted Campbell to read it and make copies of it. Hill then resealed the letter. See Campbell's testimony, Part III, p. 2381. The letter was as follows:

My dear Roote:

I have had a talk with Mr. Garr this morning and with Mr. Falk. When you next see Falk find out from him what his expenses would be, and ask him about McIntyre as a lawyer. Perhaps the expense money was thought too little.

W. M. B.

⁶ Connolly, op. cit., p. 207; Senate Report, Views of the Minority, Part I, p. 23. According to this report Campbell had incurred many further obligations to be paid for by Daly such as attorney's fees, etc., that were not included in the \$40,000.

Because of Campbell's doubtful transactions and Daly's large expenditure of money, some members of the committee felt that this tended to cast suspicion upon the good faith of the memorialists.

On the day the investigation began, January 5, 1900, the proceedings were started by the opening statement of the prosecution, delivered by the senior counsel, Mr. Edmunds. He explained that the prosecution expected to prove that either Senator Clark or his recognized or active agents had used large sums of money to procure his (Clark's) election to the United States Senate.⁷

Senator Edmunds was answered by Senator Faulkner in the opening statement for the defense. The latter attempted to show why the results of the investigation should be rendered in favor of Senator Clark. Senator Faulkner pointed out that not a single one of the opponents of Clark in the election was a party to the petition demanding redress of grievances; that when the governor signed the certificate of election, he was aware of all the facts concerning it, and he "must have been satisfied that there was no sufficient reason to withhold his credentials"; and that of all those persons being charged as bribers and bribe takers, a felony under the Montana laws, not one indictment had been found, or presentment offered in any court of that State against these alleged criminals, even though the supposed offense had happened a year before.⁸

⁷Senate Report, Part I, pp. 3-12.

⁸Ibid., pp. 12-22.

After these two opening statements the hearing adjourned until the next day, January 6, 1900, when it reopened at 10:15 a.m. The first witness to testify was the Speaker of the House, Henry C. Stiff of Missoula County.

Stiff had formerly been a law partner of W. M. Bickford. This partnership which dated from December 1, 1892, was dissolved on January 1, 1897. Thereupon Bickford became a member of Clark's legal staff at Butte and devoted practically all of his time to the Senator's interests. It was to Stiff that the former law partner came one Sunday morning in December shortly after the regular general election.⁹ Bickford was already attempting to round up votes for Clark.

Stiff claimed that Bickford had spoken to him before in a general way concerning Clark's candidacy, but had proposed nothing definite until this 11th day of December.¹⁰ At this time Bickford gave Stiff a piece of paper containing a list of the property owned by H. W. McLaughlin, another newly elected member of the Legislature from Missoula County. On this paper, after each designated piece of property were figures indicating its valuation. At the foot of the paper was the total valuation which amounted to \$32,914. Below this was the following statement signed by H. W. McLaughlin:

"I agree to sell the above property at a discount of twenty-five per cent and accept employment in lieu

⁹Ibid., Part I, p. 30.

¹⁰Ibid., p. 32.

thereof as mill-manager for a term of two years at \$2400 per year."¹¹

Before placing the paper in Stiff's keeping Bickford took a pair of scissors and cut off McLaughlin's signed statement which he retained. Stiff retained possession of that part of the paper with the valuations on it until after the Legislature had been in session for some time, when he attached it to an affidavit as an exhibit. In this form it found its way into the possession of the Attorney-General of Montana.¹²

Walter M. Bickford was called to the stand to corroborate this story, but his memory was exceedingly poor. The following cross-examination took place:

"Mr. Campbell: Do you remember having a conversation with him (Stiff) and presenting to him a paper, about the time he set forth?

"Mr. Bickford: I have no distinct recollection of such a transaction, although I know from his testimony that I did present to him a paper such as he describes.

"Mr. Campbell: Did you cut off anything at the bottom of the paper?

"Mr. Bickford: Not that I remember.

"Mr. Campbell: Have you any paper now which you did cut off from the bottom of that or any other paper which was handed to Mr. Stiff?

"Mr. Bickford: No, sir.

¹¹Senate Report, Part I, p. 37. McLaughlin in his own testimony claimed that he received \$24,684 which was about 25% less than the price as listed by him on the paper. In 1898 all this property was assessed at only \$6,405--the tax list being signed by McLaughlin. See his testimony in Senate Report, Part II, pp. 1286-1293.

¹²Senate Report, Part I, p. 35.

"Mr. Campbell: If you had such a paper it has been lost or destroyed?

"Mr. Bickford: I do not know what has become of it.

"Mr. Campbell: It is not in your possession?

"Mr. Bickford: It is not in my possession that I know of."¹³

Later, when the paper was produced, Senator Chandler asked Bickford to fold the paper as it had originally been folded; and when he did so, the last fold fell short by one and one-half inches, corroborating Stiff's testimony.

Before the interview of December 11 between Stiff and Bickford had terminated, the latter made the following concrete statements according to Stiff's testimony:

"We want your support for Mr. Clark as United States Senator; we want your active support in the matter. McLaughlin is going to support Mr. Clark, and I want you to examine the title to this property mentioned in this paper and report to me what you think of the title that McLaughlin has to the property, and for this you will be paid \$500."

"He (Bickford) said, furthermore, knowing I (Stiff) had a partner at that time, 'This is for you individually. I do not desire that this go into the partnership fund, but it is for you personally. It will take but a little time to do it; and more than that,' he said, 'if you will support Mr. Clark you will be placed upon Mr. Clark's roll of attorneys for him at a salary of several thousand dollars a year'--I think that was the term he used--'for a term of years.'"¹⁴

¹³Ibid., p. 36.

¹⁴Senate Report, Part I, p. 39. A. J. Davidson, in his testimony, told an interesting anecdote of Stiff upon an occasion when he was addressing a convention in Missoula, apparently in the year 1897. Davidson said: "Mr. Stiff was thought by our people in the early part of the campaign to be a Clark man himself. I remember hearing Mr. Stiff make a speech...that struck me very forcibly. It was a speech to the Daly crowd. 'Howl, you hirelings,' he says, 'you can't scare me.'" See Davidson's testimony, Senate Report, Part II, p. 1432.

Bickford also indicated that Clark was going to buy McLaughlin's property and that McLaughlin was going to support Clark for Senator.¹⁵ And this in spite of the fact that McLaughlin had been known as a Daly supporter.¹⁶

Two weeks later, on Christmas Day, Bickford had another conversation with Stiff. The two men walked up Higgins Avenue in Missoula from the Florence Hotel to the Northern Pacific Depot. At this time Bickford spoke about Stiff's candidacy for the Speakership. The Clark forces had picked E. C. Day of Helena for that particular position, and they were tremendously anxious for Stiff to withdraw his candidacy. Just before the train came in that Stiff boarded, Bickford made another definite proposal: that if Stiff would withdraw his candidacy as Speaker and support Clark for Senator, he would be paid \$10,000. After Stiff had given an unsatisfactory reply to this offer, Bickford urged him to come to Butte the following week where they might have another conversation. Stiff answered that he might be in Butte but did not promise to meet Bickford there.¹⁷

After the Legislature had convened and Stiff had been selected as Speaker, another offer was made to him, this time by A. B. Cook, who had been a former State Auditor of Montana--a man who remained a Clark supporter and a political enemy of the Anaconda Copper Mining Company to the end of his life, even after both Daly and Clark had died.

¹⁵Senate Report, Part I, p. 39.

¹⁶Connolly, op. cit., p. 28.

¹⁷Senate Report, Part I, p. 49.

Cook invited Stiff to come to the Montana Club, saying that he would be glad to show Stiff through the entire building. The two men finally arrived in a small cardroom on the upper floor. Here Cook closed the door and told Stiff that, since he had already been chosen Speaker, that could not be taken away from him, but that he had better accept \$20,000 to vote for Clark, which he (Cook) was then offering him. To this Stiff did not reply definitely but told Cook that if Mr. Clark really wanted his vote, he could very well afford to pay more than \$20,000 for it.

"Well," Mr. Cook said, "how much more do you think he ought to pay?"

Stiff answered:

"I do not want to be understood as soliciting or making a proposition to the effect that I will vote for him for any particular sum, but if he wants my vote for United States Senator very bad he can afford to pay \$50,000 for it."

Cook then said,

"I will see Mr. Clark and see what he says about it. When can I see you again?"

Stiff replied,

"Well, I think you can name your own time, as to that, when the house is not in session. I am not very busy, except when the house is in session."

Cook ended by saying that if Stiff would meet him at the Montana Club at 8 o'clock that same evening he would let him know what Clark said about it. Stiff promised to meet him at the appointed place and time, but did not do so, and Mr. Cook did not take up the question with him afterward.¹⁸ When he was asked whether he resented such proposals from

¹⁸Senate Report, Stiff's Testimony, Part I, pp. 52-3.

his friends, Stiff said that he did not feel hurt in the least. "I knew my strength better than before. I have often since congratulated myself that I was able to resist the offers that were made me."¹⁹

When Mr. Stiff was cross-examined by Senator Faulkner he admitted that he was an attorney for the Big Blackfoot Milling Company, a concern which manufactured certain kinds of lumber, and owned since August, 1898, by Marcus Daly.²⁰ Therefore, the relationship between Daly and Stiff was that of client and attorney prior to, during, and after the session of the Legislature which elected Clark.

Mr. Faulkner also attempted to prove that Stiff appointed three opponents of Clark from the House to the legislative investigating committee. Stiff, however, claimed that he didn't know how Judge W. J. Stephens of Missoula County felt on the Senatorial question when he made that appointment.²¹ But it is significant that Stephens never supported Clark. Stiff did admit that he knew that the second member of the committee, Mr. E. H. Cooney, was the local correspondent of the Anaconda Standard at Great Falls, which was reputed to be Mr. Daly's newspaper; and that the third member, Mr. John R. Toole, had formerly been in the employ of Mr. Daly on a salary, in Anaconda, and was by some at least recognized as the leader of the Daly forces in the Legislature.²² This

¹⁹Connolly, op. cit., p. 29; also Senate Report, Part I, p. 63.

²⁰Senate Report, Part I, p. 54.

²¹Ibid., p. 57.

²²Ibid., pp. 59-60.

testimony was to prove that Stiff was a Daly man to begin with, and therefore prejudiced against Clark in all circumstances.

But when Faulkner asked the direct question:

"Have you not been an active opponent of Mr. Clark in the whole investigation that has been had before the legislative committee, the grand jury, and in the Wellcome trial?"

Stiff answered,

"Not to the extent and in the manner that you state, Senator. I am desirous that this investigation shall go to the extent of ascertaining the truth. I am interested in the matter as a citizen of the State of Montana."²³

Mr. Stiff testified that Mr. Bickford to the best of his knowledge was not well-to-do, and sometimes complained of lack of money. Mr. Faulkner attempted to minimize the offer of Bickford for Stiff to investigate the McLaughlin records. This can be deduced from the following dialogue:

"Mr. Faulkner: To whom would Mr. Bickford naturally...have gone to, to have a legal matter investigated in the records of your county...?"

"Mr. Stiff: My knowledge of Mr. Bickford was that if he had desired any legal work done of which he had the control and in which there was a good fee he would have attended to it himself.

"Mr. Faulkner: Suppose he had not the time?

"Mr. Stiff: I do not know what he would have done if he had not the time. He did not give that as a reason why he did not investigate the title himself--lack of time. On the contrary, he urged upon me that it would require but little time.

"Mr. Faulkner: Do you know of...any other lawyer...where you reside, who, if Mr. Bickford desired to employ someone at that time to do this work, he would have gone to sooner than yourself?

²³Ibid., p. 56.

"Mr. Stiff: I think he would have gone to Mr. Hershey who...had been his partner."²⁴

H. W. McLaughlin, whose property Bickford had asked Stiff to examine, had been sheriff of Missoula County. Prior to the legislative session of 1899, no one had ever questioned his honesty or integrity.²⁵

At this time he was in serious financial difficulties. He owned a planing-mill and several town lots in Missoula and some timber lands in the county. While the mill was considered to be in the town of Missoula, it was rather far from the business center.²⁶ The planing-mill had not been in operation for several years; and the machinery, or at least the major portion of it, according to Stiff, had been removed to a place called Nine Mile, below Missoula²⁷, where McLaughlin had put up a second planing-mill, but which, with the machinery, had been destroyed by fire.²⁸

The Missoula planing-mill consisted of some rather rude structures, in which McLaughlin at one time had manufactured window sashes and similar articles. Because of lack of use, these buildings had fallen into a sad state of disrepair. For two or three years prior to the investigation,

²⁴Senate Report, Part I, pp. 64-5.

²⁵From McLaughlin's testimony, one would gather that he was not very well educated. Some of his statements were quite crude and some contained grammatical errors. One statement was, "...I have no objection to your getting money out of them parties..."; and another, "Then him and I had a conversation about the Senator"; still another, "I think Mr. Wethy drawed both checks, if I don't mistake."

²⁶Senate Report, Part I, p. 40.

²⁷Ibid., p. 67.

²⁸Connolly, op. cit., p. 29.

the sheds had been used during the shearing season for corralling and shearing sheep. Stiff claimed that a fair price on all this Missoula property would be about \$2,500 to \$3,000--yet it was valued on the list at \$10,000.²⁹

At the time of his election to the Legislature, McLaughlin had all this property heavily mortgaged. One mortgage bearing the date of December 22, 1897, from McLaughlin and his wife to the Missoula Mercantile Company was for \$4,000. Another to the same firm bearing the date of December 31, 1896, was for \$16,000. For this money he and his wife on the same date also gave a chattel mortgage on household goods, mill machinery, farm machinery, and some livestock.³⁰ Yet under cross-examination Senator Faulkner tried to prove that McLaughlin at the time of his election was worth from \$40,000 to \$50,000. To this suggestion Stiff answered:

"He may have been, but I had no reason to believe he was. On the contrary I had reasons to believe he was not. One instance was that I had occasion to sue Mr. McLaughlin...and I got a judgment against him, and he begged for some time in which he might

²⁹ Senate Report, Part I, p. 40.

³⁰ Ibid., pp. 76-87.

arrange to get some money. It was not a large sum, less than \$500, or about \$500."³¹

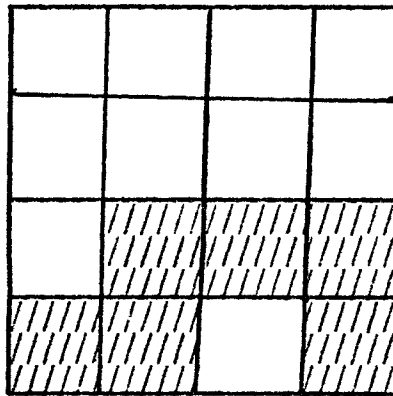
McLaughlin did not make an active campaign for election, even after he was nominated for the Legislature--Stiff heard him say that he did not have the money and could not afford to make a campaign.³²

³¹Ibid., p. 73. McLaughlin in his testimony also told of this incident. He said that the amount was "\$463 and something"; that he had beaten Stiff in the district court, but in the Supreme Court where Stiff had appealed, he was beaten. He claimed that he paid Stiff just "a few days after" the decision of the court and that he had not asked for any time in which to obtain the money and had a receipt to prove it.

McLaughlin told the entire story of this suit. A man named Sloan owed Stiff the money; Sloan lived on the Flathead Indian Reservation, so McLaughlin refused to serve papers on him, thinking he was without authority to do so. After McLaughlin had paid Stiff, the former expected to be reimbursed by Sloan and made preparations to meet him at Ravalli, Montana. But Stiff heard of this arrangement and attempted to stop the settlement, under the assumption that regardless of his judgment against McLaughlin, Sloan had not paid him. When Sloan observed the controversy between Stiff and McLaughlin he refused to pay anyone and the matter was allowed to "hang fire." In the meantime Stiff offered to take \$200 and let McLaughlin have the rest of the money, but the latter refused and had again to resort to the court, which decided that McLaughlin was entitled to collect from Sloan since he had already paid Stiff. It was a year later before McLaughlin got his money, and then he was compelled to accept \$140 less. See McLaughlin's testimony, Senate Report, Part II, pp. 1280-2.

³²Senate Report, Part I, p. 73. McLaughlin claimed in his testimony, however, that he never said that he could not afford to make a campaign. He said that it was not necessary for him to campaign and without doing so, he had received the largest majority of all of the candidates for the Legislature in Missoula County. He claimed that at the time of the campaign, he and his wife had about \$1500 in cash which he called "a pretty fair jag of money" and that he could have done some electioneering had he so desired. See McLaughlin's testimony, Senate Report, Part II, pp. 1278 and 1294.

McLaughlin sold all his property to Clark, the transfers being recorded in three separate deeds. The first deed³³ was dated September 2, 1899, and called for a consideration of \$1,300 for which Clark received two hundred and forty acres of land in Section 30 of Township 15 North, and Range 22 West--according to the shaded parts of the diagram:

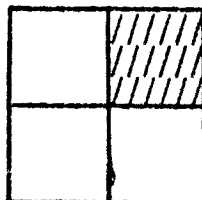


The second deed was dated December 30, 1898, and called for a consideration of \$10,000 for which Clark received twenty-five town lots, the property containing the planing-mill in Missoula, a bridge at Nine Mile, and one thousand and fifty linear feet of pile bridging and several pieces of timber land as indicated in the shaded portions of the following diagram of Township 15 North and Range 22 West:

³³ The "first deed" in the order that they are given in the Senate Report, Part I, pp. 42-47. See page 161 for statement concerning the recording of all the deeds.

<u>6</u>		<u>5</u>	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>
<u>7</u>			<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>	
<u>19</u>	<u>20</u>		<u>22</u>	<u>23</u>	<u>24</u>	
<u>30</u>	<u>29</u>	<u>28</u>	<u>27</u>	<u>26</u>	<u>25</u>	
<u>31</u>	<u>32</u>	<u>33</u>	<u>34</u>	<u>35</u>	<u>36</u>	

The second deed also included the shaded part of Section 8 of Township 14 North and Range 22 West:



Altogether there was a total of (1740) seventeen hundred and forty acres listed in the second deed.

The third deed was dated March 12, 1899, and called for a consideration of \$14,182.00 for which Clark received six town lots and the several pieces of timber land as are indicated in the following diagram:

Township 16 North Range 23 West

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

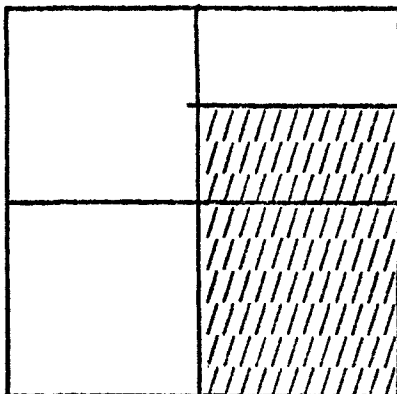
Township 15 North Range 23 West

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Township 15 North Range 22 West

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

This third deed also included two hundred and forty acres in Section 6 of Township 6 North and Range 22 West as indicated:



Altogether there was a total of (1680) sixteen hundred and eighty acres included in the first deed.

The first deed was recorded at the Missoula County Courthouse on September 8, 1899; the second and third deeds were both recorded at the same county courthouse on April 28, 1899.

These land sales did not terminate the business transactions between Clark and McLaughlin. Stiff testified to the formation of a corporation known as the Western Lumber Company to which McLaughlin also conveyed some property³⁴, but he did not designate just what property it was.³⁵ The articles of incorporation were under the laws of the State of Washington and the incorporators were W. A. Clark, W. M. Bickford, H. W.

³⁴Senate Report, Stiff's Testimony, Part I, p. 41.

³⁵It was thought that Clark took the same lands that he purchased from McLaughlin and turned them over to this new corporation.

McLaughlin, and A. P. Weathy³⁶ of Spokane. McLaughlin was promised a job for two years at \$2,400 a year from Clark; consequently, he became manager of the properties of the Western Montana Lumber Company. Stiff intimated that these properties did not require any management, although he said that he did not know.³⁷ Congressman Campbell claimed that McLaughlin managed and controlled the same properties which he sold to Clark, and that the price Clark paid for them was excessive.³⁸ Connolly claimed that \$10,000 would have been an exorbitant price for all the properties; that Clark paid McLaughlin \$10,000 in cash in December, 1898, and \$6,000 in cash in March, 1899; and that in addition McLaughlin received \$8,684 in stock in the Western Lumber Company.³⁹

The two mortgages of \$4,000 and \$16,000 held by the Missoula Mercantile Company against McLaughlin's real estate were both fully paid on December 31, 1898, a fact recorded in the Missoula County records on

³⁶Connolly gives his name as A. H. Wethey and states that he was a business manager for Clark.

³⁷Senate Report, Part I, p. 48. McLaughlin claimed that during the first year of the life of the new corporation, he had cut close to 10,000,000 feet of lumber; also that the value of the stock in the corporation which was \$50,000 at first, was raised during the first year of its life to \$150,000. He also pointed out that Mr. Daly virtually controlled the entire timber market in Montana, and that it was utterly necessary for Clark to purchase some timber land since he used from six to ten million feet each year. See Senate Report, Part II, pp. 1275 and 1279.

³⁸Senate Report, Part I, p. 38.

³⁹Connolly, op. cit., p. 29. Connolly gave the figures on the stock in round numbers at \$8,000. McLaughlin said that the cash payments came in two \$5,000 checks--the first as a down payment, the second one later, and the final \$6,000 in March, 1899, when the company was incorporated.

March 3, 1899, by the County Recorder. The chattel mortgage on his personal property was released also on March 3, 1899.⁴⁰

McLaughlin voted for Clark on every one of the eighteen ballots cast. He explained it by saying, "It is a matter of bread and butter to me and my family."⁴¹

.....

It will be remembered that H. H. Garr was the old Civil War veteran who had been elected from Flathead County. He had been anxious to sell his vote and was an unwilling witness during the Whiteside exposure and before the grand jury, where he had told a very ludicrous tale. His testimony before the Senate Committee was just as funny.

⁴⁰Senate Report, Part I, pp. 76-87. McLaughlin explained about these mortgages and their payment in his testimony. The \$16,000 mortgage was the one taken first (Dec. 31, 1896) and it was paid on Dec. 21, 1897. Four notes were made out in connection with this loan: two for \$5,000 each and two for \$3,000. These four notes were paid--two of them on December 21 and two on December 22, 1897. McLaughlin had the cancelled notes and put them in the evidence to prove his contention. He claimed that much of this bill had been paid in lumber. He was \$4,000 short in actually having enough to pay off this mortgage, so a new mortgage was made out for \$4,000 dated December 22, 1897. Consequently when he was nominated for the Legislature, he owed the Missoula Mercantile Company but \$4,000. He also claimed that he had begun to negotiate for the sale of his timber lands with Clark through Bickford early in September, and he had not been nominated for the Legislature until late in September--that he had not decided to be a candidate until four or five days before the convention was held. See his testimony in Senate Report, Part II, pp. 1272, 1276-8.

⁴¹This statement was supposed to have been said to John R. Toole in the barroom of the Helena Hotel. Toole claimed that during this conversation McLaughlin was irritated and swore considerably. McLaughlin admitted that he had a conversation with Toole there but denied making the so-called "bread and butter" statement. See Toole's testimony, Part III, pp. 2156-7, and McLaughlin's, Part II, pp. 1294-5 of Senate Report.

He was again cross-examined concerning the fact that Whiteside had taken him to a room in the Helena Hotel and had had him sign his initials, H. G., on the back of an envelope that contained \$5,000 in currency (five \$1,000 bills). When Mr. Campbell for the prosecution asked him:

"Can you give any account or reason now why you put your initials on the envelope without inquiring as to what he intended to do with it?"

Garr answered:

"No; except this, that I had the utmost confidence in Mr. Whiteside, and could not imagine for an instant that he would betray me in any way; and another argument is that I was an egregious ass, in plain, unadulterated English."⁴²

This \$5,000 was lost to Garr forever, since it was given over to the State Treasurer in the Whiteside exposure; nevertheless he did not go home empty-handed. It was Clark who sustained the loss; Garr received \$6,000 later on. He began voting for Clark on the fourteenth ballot and continued to do so until Clark was elected.

It has already been noticed that Whiteside accused Garr of going to Flathead County while the Legislature was in session and depositing a package of money with D. R. Peeler. Garr denied this and claimed he went home because he was sick. He was absent most of the time, because he voted only five times out of the first thirteen ballots cast. These five votes were cast for W. G. Conrad of Great Falls. The Democratic convention, it was thought, had instructed the candidates that, in case he could be elected, they were to vote for Conrad; but Garr claimed that they were only instructed to vote for a Democratic candidate. He also admitted

⁴²Senate Report, Part I, p. 488.

that he had promised C. E. Conrad to vote for his brother, W. G. Conrad, but only so long as there was any chance for him to be elected. Garr thought that the five votes cast for him fulfilled that promise.⁴³

Connolly claims that Garr, on his way home after the adjournment of the Legislature, stopped at Great Falls and had a \$1,000 bill exchanged at a bank.⁴⁴ But Garr in his testimony denied this.⁴⁵ There is no denying, however, that Garr's financial prospects were much brighter after the session than they had been for many a day. He had some ingenious explanations for this.

Mr. Garr was a poor man. As a notary public and a United States Commissioner, he managed in some months to earn as much as \$50 or \$75; but in other months he would earn practically nothing. He owned his little house and lot in Columbia Falls. Jane Wickham, an elderly maiden aunt of his wife, lived with the Garrs and paid for her board at the very nominal rate of \$2.50 per week. This lady owned a small millinery and dry goods establishment, which Congressman Campbell thought had a stock of goods worth not to exceed \$500, but which Garr intimated was worth three or four times that much. Campbell also asked if it were not true that Miss Wickham had never turned in an assessment prior to 1899, but Garr pleaded ignorance of that subject.

⁴³Senate Report, Part I, p. 482.

⁴⁴Connolly, op. cit., p. 206.

⁴⁵Senate Report, Part I, p. 495.

Shortly after the session was over, Garr negotiated for the purchase of a ranch, which he obtained for \$3,500, paying for it in cash.

The testimony concerning this transaction was interesting:

"Mr. Campbell: Did you make a bargain for it?

"Mr. Garr: I did.

"Mr. Campbell: With whom?

"Mr. Garr: Mrs. _____

"Mr. Campbell: Who did you make the bargain with for this ranch?

"Mr. Garr: Give me a chance and I will tell you, confound it.

"Mr. Campbell: All right.

"Mr. Garr: I made the bargain with Mrs. Coyle. Hannah Coyle, widow of Terence C. Coyle.

"Senator Pettus: Mr. Chairman, I think the witness should conform to some reasonable usage.

"Mr. Garr: I beg your pardon, gentlemen.

"The Chairman (Senator Chandler): The witness spoke from impulse, I think.

"Mr. Garr: Gentlemen, if I have done anything that is out of place, I sincerely beg your pardon.

"The Chairman: Take your seat, Mr. Garr, and go on.

"Mr. Garr: I beg that you will excuse me, gentlemen.

"Mr. Campbell: How did you pay for it?

"Mr. Garr: I paid for it in money--cash.

"Mr. Campbell: Is it not a fact that one of the bills was a \$1,000 bill?

"Mr. Garr: Yes, sir; I think that is right.

"Mr. Campbell: And one of the bills was a \$500 bill?

"Mr. Garr: I think there was more than one of them was a \$500 bill.

"Mr. Campbell: And how many \$500 bills?

"Mr. Garr: I think there was two or three.

"Mr. Campbell: What was the consideration for the ranch?

"Mr. Garr: It was \$3,500, but I want to--

"Mr. Campbell: I will give you an opportunity to explain.

"Mr. Garr: I propose to take it if you don't give it to me.

"Mr. Campbell: I am not going to harm you.

"Mr. Garr: I know you are all right, Andy, but then I am on to you; that is all.

"Mr. Campbell: Why was it you paid money for the ranch instead of paying in a check or something of that kind?

"Mr. Garr: Because I was doing this thing for another party.

"Mr. Campbell: Who were you transacting this business for?

"Mr. Garr: For Miss Jane Wickham.

"Mr. Campbell: Where did you get the money with which you paid for this ranch?

"Mr. Garr: I got it from Miss Wickham.

"Mr. Campbell: How did she give you the money?

"Mr. Garr: She just gave it to me."

Subsequently Garr said, "She handed it to me in the front room--the sitting room." Connolly rather ironically put it, "...in the parlor of his little home as they stood by the center table on which the family Bible lay."

"Mr. Campbell: In cash?

"Mr. Garr: Yes, sir; bills.

"Mr. Campbell: Did she not give you a check?

"Mr. Garr: No, sir; she doesn't do any banking business at all. She is from Vermont. I don't think she would deposit a dollar in the Treasury of the United States, right here in Washington, as far as that is concerned."⁴⁶

Garr went on to explain when examined that Miss Wickham kept all of her money in a chest--a sort of a strong box, which in turn she kept in a big trunk in her room. He pleaded ignorance when asked how much money she had in this box. He also claimed that he never knew until recently that she had any money at all. She had never bought any property before but had talked of buying this particular ranch for more than a year, he said.⁴⁷

Miss Wickham figured in one other financial transaction, according to Garr, just about the time the ranch was bought. A man named Frank Tannhouser owned sixty acres of fine timber land on which there was 2,000,000 or more feet of good lumber. There was a mortgage on it for something over \$200, which, together with a note for \$25 and all the accrued interest which amounted to nearly \$400, was held by one Mac C. Winnegar. Garr (acting for Miss Wickham, as he said) paid off this mortgage and loaned Tannhouser some \$200 more, and took a new mortgage on this land for \$600 and at a lower rate of interest than what Winnegar had been receiving. On the stand Garr said that he told Miss Wickham, since she consulted him frequently about her business, that he "thought it would be a good investment for her, and I think so yet," he added.⁴⁸

⁴⁶Senate Report, Garr's Testimony, Part I, pp. 489-90.

⁴⁷Senate Report, Part I, p. 491.

⁴⁸Ibid., p. 494.

Later when again quizzed about this aunt's paying but \$2.50 per week for board, Senator Hoar asked the following question:

"Do you not think that it is a little singular that this lady, with so large a property, made so small a contribution to so poor a family?"

Garr answered:

"Judge, I will tell you. Well, it might be; yes. It does look that way; but then you will understand the situation better when I tell you that my wife made the proposition, and you can imagine from that that it is not always best to interfere with your wife in matters of that kind."⁴⁹

Garr also had another real estate deal, but in this case he assumed the responsibility. According to his testimony, he had purchased a block of town lots nearly three years before, on which he had paid \$175. After the legislative session he had constructed on them a building at a cost of about \$1,200. When asked where he got the money, Garr claimed that he had borrowed \$600 from Peeler, with which he had personally paid the bills. He further claimed he had given his notes for this money and that the notes would be secured as soon as the building was completed.

It was plain that the committee was not impressed with Garr's fantastic stories. At different times Senators Turley, Hoar, Chandler, Burrows, and Caffery all took a hand at questioning him. He was treated courteously, but an onlooker could easily tell by the penetrating questions asked that the Senators were convinced that much of his testimony was false.

.....

⁴⁹
Ibid., p. 499.

The unsuccessful Clark candidate for Speaker of the House, Mr. Edward C. Day, was from Helena, in Lewis and Clark County. He was an excellent lawyer and was associated in a partnership with W. E. Cullen and his son, the firm being known as Cullen, Day, and Cullen. It was to be expected that he would favor Clark for the Senate, because Lewis and Clark County was overwhelmingly for him; and Day, regardless of personal considerations, reflected the attitude of his constituents. He was known as a man of honesty and integrity and apparently had an unimpeachable character.

Day was recognized as the leader of the Clark forces on the floor of the House in the Montana Legislature. As he himself put it in his testimony:

"I had acted as the manager, you might say, or leader of his forces upon the floor of the House. I attended to keeping a quorum present, and seeing that friends of his were sent for that were not present at roll call, and made motions, and attended to the ordinary parliamentary, perhaps you would call it, procedure of his friends in that body."⁵⁰

In this capacity he rendered splendid service to Clark.

Day was exceedingly disgusted with the Clark faction at the time of the Whiteside exposure. He denounced bribery and even denounced W. A. Clark, but his vehemence was short-lived. On the first two ballots cast, on January 10 and 11, Day voted for Joseph K. Toole; but on the third ballot, January 12, he voted for Clark and continued to do so, with the exception of the tenth ballot when he was absent, until Clark had been

⁵⁰ Senate Report, Day's Testimony, Part II, p. 1945.

elected.⁵¹ And during all that time Day worked just as tirelessly, vigorously, and unselfishly in Clark's interests as he had before the exposure. He explained this by saying that in Helena the feeling for Clark was so strong that he was compelled to support him.⁵² For these services Clark rewarded Day immediately after the adjournment of the Legislature. Mr. Day told the following story of this affair in his testimony:

"While I was a member of the Legislature no man ever approached me on the subject of compensation for my services, or money, or anything of the kind. The day after the Legislature adjourned Mr. Davidson, who had been with me through the campaign and who had been a friend of mine for a great many years, came to my office in the afternoon and said that he came to express Mr. Clark's thanks for the services that I had rendered and also to present me a testimonial of his regard and a retainer for any services that I might be able to render in any controversy arising over his seat in the United States Senate. Accompanying his words, he handed me an envelope, I think, bearing the business address of W. A. Clark & Bro., in which were two certificates of deposit for \$2,500 each, dated March 2, and payable on demand to my order. This was March 3. I thought the matter over probably as long as I have been telling the story, and thanked Mr. Davidson, and asked him to thank Mr. Clark for his kindness in the matter.

"I deposited the certificates of deposit to my credit in the Montana National Bank the same day and had the proceeds passed to my account. That is all there is about that transaction. Since that time I have considered myself Mr. Clark's attorney in so far as the controversy over his seat was concerned. Accompanying the two certificates was a little ordinary banking card asking you to return your signature--a printed card; and I returned the card after writing across it 'Thanks,' or something of the kind."⁵³

⁵¹Senate Report, Votes Cast, Part III, pp. 1909-22.

⁵²Connolly, op. cit., p. 36.

⁵³Senate Report, Part III, pp. 1941-2.

After the recital Day was rigorously cross-examined by both the prosecution and several members of the committee. He admitted that he had kept the entire \$5,000--none of it had gone to the law firm, of which he was a part. When asked whether he regarded it as a retaining fee or as a gift, he answered: "Partly as a retaining fee and partly as a gift. I regarded it certainly as a retainer, but I presume that the amount of it was due to my relations with Mr. Clark."⁵⁴

Day testified on February 20, 1900, and at that time said he was one of Clark's attorneys, aiding in the defense in the investigation. He indicated he had already been in Washington four or five weeks. Senator Turley then asked him if this work was part of the service that he was to render for the \$5,000, or if he expected additional pay for it; and Day answered that he expected more money, but that so far there had been no agreement as to just what the services would be worth.⁵⁵

Day was further catechised about other money that he had received from the Clark forces. He then admitted that he had received \$200 or \$300⁵⁶ from Mr. Davidson before the State Convention had met, presumably to further his candidacy; and again in December Davidson, representing an unofficial committee, had given him \$300 more to aid in his campaign for the Speakership.⁵⁷

⁵⁴Senate Report, Part III, p. 1943.

⁵⁵Ibid., pp. 1944 and 1950.

⁵⁶Day couldn't remember just how much.

⁵⁷Senate Report, Part III, pp. 1942-3. Davidson in his testimony claimed he gave Day money only one time; Senate Report, Part II, p. 1426.

The firm of Cullen, Day, and Cullen had been retained as attorneys in the Wellcome Disbarment Case and in the suit of Fred Whiteside against the Miner; and for these services the firm had been given another \$5,000.⁵⁸

Mr. Davidson had carried the two \$2,500 certificates in his pocket for a month before presenting them to Day. Whether he thought it might incriminate Day to pay him before the adjournment of the Legislature, or whether he thought Day might regard it as more considerate in him to hold the money until after the excitement was over, can only be surmised.⁵⁹

Day was also rigorously questioned regarding the sanctity of the oath he took as a member of the Legislature. Part of the oath had a direct bearing upon the act of bribery; it read:

"...that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law."

The following examination took place in regard to Day's attitude on this oath:

"The Chairman (Senator Chandler): Mr. Day, did you take a similar oath?

"Mr. Day: Yes, sir; that is the oath.

"The Chairman: Did you think of it when you accepted that \$5,000?

"Mr. Day: I did not accept it as compensation for any services I had rendered as a member of the Legislature.

"The Chairman: What services had you rendered?

⁵⁸Senate Report, Part III, p. 1945.

⁵⁹Connolly, op. cit., p. 36.

"Mr. Day: I had simply performed duties as a friend of Mr. Clark.

"The Chairman: ...State again on what account it came.

"Mr. Day: As an appreciation for my efforts in securing his election. I had rendered the services without any expectation of reward, and the man desired to reward me, and I accepted it.

"The Chairman: Mr. Day, did you have the oath in mind when you accepted that money?

"Mr. Day: I would say I did not.

"The Chairman: What do you think of it now in the face of your oath?

"Mr. Day: Well, I do not see that it is in violation of the oath. Of course, I appreciate it might be subject to criticism.

"The Chairman: You have been in the Legislature all through the exciting scenes that took place there, the Whiteside exposure and the three or four weeks of balloting after that?

"Mr. Day: Yes, sir.

"The Chairman: When there were charges of corruption in every direction?

"Mr. Day: Yes, sir.

"The Chairman: And then in March you received these certificates; you immediately endorsed them, and took the money?

"Mr. Day: Yes, sir.

"Mr. Faulkner: Mr. Day, you are one of the few men who never were charged with any corruption during that Legislature, are you not?

"Mr. Day: Well, I do not know that I have escaped.

"Mr. Faulkner: Did you ever hear of any charge against yourself?

"Mr. Day: Why, I have heard it talked of. I never heard

of any open charge made. There was no public charge in print that I ever heard."⁶⁰

.....

One of the representatives from Ravalli County was Mr. E. P. Woods. This county was a Daly stronghold because Daly had his fine residence and racing stables at Hamilton, the county seat. Here also he had part of his extensive lumbering business that employed about one hundred and fifty men.⁶¹ Woods, however, had claimed to be a Clark man from the very first, but he did not want it to become generally known because he believed it would defeat him. There was, however, considerable Clark sentiment in the north end of the county to offset Daly's influence around Hamilton.

Shortly after Woods was nominated for the Legislature, Walter M. Bickford appeared in the Bitter Root Valley. In his testimony Bickford told the story of his journey:

"I had gone to the Bitter Root Valley to talk to Mr. E. P. Woods, who was the candidate for the Legislature on the Democratic ticket. At the time I went to Mr. Wood's home a rumor had come to me that he was being sacrificed by the Daly wing of the Democratic party, and one Robert O'Hara, a Republican, was being urged by the Daly people, and would probably be elected to the Legislature unless an extra effort was made to elect Mr. Woods. I talked with Mr. Woods concerning the matter, and he had no idea that anything of the kind was going on, but said that it might be well to do some extra work in his favor in the north end of the county, and perhaps a little in the south end of the county, where the Daly interests were and where the Daly vote was largely centered. I asked him who he thought could best do the work, and he said that Dr. Ector, of Stevensville, was a good friend of his and he would be a good

⁶⁰Senate Report, Part III, pp. 1951-4. For the statement of Day's deposit of \$5,000 with the Montana National Bank, see same volume, p. 2317.

⁶¹Senate Report, Part III, Daly's Testimony, p. 2237.

man. After talking with him a few moments upon this subject I went to Stevensville, and while there met Dr. Ector. I talked with Dr. Ector concerning the matter, and Ector expressed himself as willing to undertake to do what he could for Mr. Woods and the rest of the Democratic ticket."⁶²

Dr. E. L. P. Ector, the Stevensville dentist, gave his version of the meeting with Bickford. He said:

"I was going down the street one evening and met Mr. Bickford right near the Stevensville Hotel. I remarked, 'What are you doing up here?' I do not remember the reply he made, but in conversation I found he was up looking over the political situation in the county; and in the conversation I found that he was up there to see the representative who had been nominated on the Democratic ticket, and how he stood on the Senatorial situation. I told him that I was a friend of Mr. Woods, and was well acquainted with him; ... that Mr. Woods was a Clark man, and that it would not be advisable for it to be known in the county at that time. I agreed to go out and work for Mr. Woods' election; that his wife was sick and he was in a position he could not well leave himself...."⁶³

As soon as he returned to Butte, Bickford arranged with William McDermott to send some money to Ravalli County for the purpose of aiding Dr. Ector in his canvass. As early as October 23, 1898, Ector threw out a distress signal. He wrote a letter to Bickford which read as follows:

"I have been out since the day after you left and find that O'H___ is rustling like fury. There must be some encouragement for him somewhere. I stayed all night out with our man and am encouraged, indeed, but he thinks, as I do, that he has a fight on his hands and that the amounts sent over will not near make the race. Now, I've spent half or over and have done it where the most good will result, and where I've put out one dollar the other side have put out ten. You know even better than I that to make a thorough canvass among

⁶²Senate Report, Bickford's Testimony, Part II, p. 1326.

⁶³Senate Report, Ector's Testimony, Part I, pp. 401-2.

2000 votes, it requires the stuff. I want you to send us at least \$500, and it will be the best spent money of the fight."⁶⁴

Bickford answered on the 31st of October saying he would see what could be done about sending more money, but that he was without much hope of being able to supply it. Nevertheless just two days later, November 2, 1898, Bickford sent Ector an express package containing \$200 to "aid in the campaign work in Ravalli County."⁶⁵ Ector's work was evidently effective as Woods was elected. About a week after the election Ector wrote a letter to Bickford in which the following appeared:

"As you requested, I will write you as to the conditions here. Our man went to Hamilton yesterday, and I learned today that Mr. Daly is in Hamilton. How that rumor is I can't say.

"I certainly do believe that it would be best to get the strings on our party, for once with us he would remain, no matter what inducements were brought to bear to the contrary."⁶⁶

Bickford answered immediately, making the following significant request:

"I do not know what to think as to the truth of the rumor you heard with reference to the presence of our man in Hamilton; but whatever may be the truth of the rumor, I wish you would do me this favor: Write me and tell me what indebtedness, if any, our friend may have which is secured or unsecured. Is there any mortgage upon his ranch, or is he under obligations to any person of a pecuniary nature; and if so, how much is the amount, and when is it due, and is he being pressed for money or for the payment of the debt? I wish to make arrangements to take care of this myself, if there is anything of that kind. I want an immediate answer to this letter so that I can complete arrangements before the middle of next week."⁶⁷

⁶⁴ Ector to Bickford, Oct. 23, 1898, Senate Report, Part II, p. 795. O'H___ refers to O'Hara, the Republican candidate, and "our man" to Woods.

⁶⁵ Senate Report, Letters of Bickford to Ector, Part I, pp. 403-4.

⁶⁶ Senate Report, Part II, p. 795.

⁶⁷ Senate Report, Bickford to Ector, Part I, p. 404.

Four days later, November 21, 1898, Ector sent this interesting information:

"Yours of 17th received, and I reply as soon as I could answer with the proper degree of correctness. There is a chattel mortgage of one thousand dollars recorded. The ranch is in Kemper's name and our friend (Woods) simply has a contract for a deed, and while out fishing with one of his boys, the lad told me that they were in debt for it for the amount of sixty-five hundred dollars, never having paid the interest; so this must be correct.

"That the outside debts are I do not know; still they are large enough, for his bill for this last sickness cost over nine hundred dollars. I saw our friend and he told me he had been to Hamilton, and while I don't think he is weakening, he must have some encouragement from the other side, as he seems independent.

"He said he could not go to Missoula under no conditions, but asked me to represent him in this case, and would be bound by whatever I did.

"Now the whole trouble seems to be fear of offending our 'Incubus' (Marcus Daly).

"I've been on the Copper City, Limited, several times within the last week, and it's a caution to see the gang of wire-pullers going up and down the land."⁶⁸

In his testimony, Ector told how he had again written to Bickford saying that he believed he could "handle" Woods for \$7,000.⁶⁹ For all these services (helping to get Woods elected and then getting him to vote for Clark) Ector, according to his testimony, was to receive ten per cent of what Bickford would get. He figured this would be about \$2,000 or \$2,500, since he believed that Bickford would certainly be paid no less than \$20,000 or \$25,000.

⁶⁸Senate Report, Ector to Bickford, Part II, pp. 795-6.

⁶⁹Senate Report, Ector's Testimony, Part I, p, 407.

Bickford did not answer Ector's last communications until December 14, 1898, approximately three weeks later. In the meantime Ector was getting nervous and beginning to think he was losing out. In the course of his attempts to "land" Woods, another incident happened which led him to believe that he was not the only man authorized to "do business" with Woods. In his alarm he wrote to W. A. Clark, himself, on December 7, a week before he again heard from Bickford, in which he said:

"Some time ago Hon. W. M. Bickford came to see me in reference to one of the members of the Legislature from this county, as to his position on the Senatorial situation. He asked me to do certain things, which I did and wrote to him over two weeks ago, but have not heard from him yet. Yesterday in going to Missoula I found another gentleman, Dr. Minshall⁷⁰, on the train, who wished me to do about the same things in regards to business in this county. Now this places me at sea as to who does represent you in this case. As far as I can see, it will be who sees Mr. Woods first in this case, and while I represent Mr. Woods wish him to do the best he can for his own interests. There is also a fine chance to get one member from Missoula County.

"I wrote to you some weeks ago. Of course I can't and do not expect to hear from you personally but do expect to learn who I shall deal with in this matter.

"Of course I am after what there is in it for me, and if you wish me to help in this matter let me hear from your man in this by return mail."⁷¹

To this letter, Clark replied as follows:

⁷⁰The spelling here is incorrect. It was Dr. S. W. Minchell, a man of charm and cultivation, who lived in Montana because his health required a high altitude. He was a sort of agent for Clark, but of much less importance than Bickford, Davidson, Wellcome, etc. He told Senator Myers on one occasion that he was going to move to Bridger, Montana, after the Legislature adjourned and take a position there, on a salary, as a physician for Clark's employees. Clark owned some coal mines located there. Senate Report, Myers' Testimony, Part I, pp. 456-60.

⁷¹Senate Report, Ector to Clark, Dec. 7, 1898, Part II, p. 797.

"I have your esteemed favor of 7th instant, and note contents. With regard to the business referred to, the matter was entirely left in the hands of Mr. Bickford, whom I met this morning. I spoke to him about it, and he told me that the party named went to Hamilton for an entirely different purpose and not to see the party that you refer to. Mr. Bickford will communicate with you on the subject, as I am not acquainted with this situation. I am very much obliged to you for the interest you have taken in the situation."⁷²

When Bickford replied to Ector on December 14, he explained that he had not written before because he could not give a decisive answer to Ector's proposition--that of giving Woods \$7,000 so that he would be sure to vote for Clark. Bickford went on to say that he hoped to see Ector personally the next Saturday, so they could have "a full and complete understanding concerning all of our matters, and I can then advise you as to what course should be pursued."⁷³

Ector then proceeded to try to "get" Woods, but he could apparently make no headway. Nevertheless Bickford wired Ector on December 29, 1898, the following: "Will be done Saturday. Arrangements satisfactory."⁷⁴ He kept his word and came to Ector's office⁷⁵ at about four o'clock Saturday afternoon, December 31, 1898--just two days before the Legislature was to convene.

Bickford brought with him \$7,000 which he had received from Charles W. Clark, which he intended to turn over to Ector who in turn was to hold it for Woods. According to Ector's story, Bickford took \$7,000 out of

⁷²Senate Report, Clark to Ector, Dec. 10, 1898, Part I, p. 411.

⁷³Senate Report, Part I, p. 405.

⁷⁴Ibid., p. 405.

⁷⁵Ector in the meantime had moved from Stevensville to Missoula, and this interview took place there.

an envelope (five \$1,000 bills and four \$500 bills) and laid it on a table.⁷⁶ But Ector refused to accept the money and told Bickford that it was "all off." In explanation Ector claimed that he had seen Woods the day before, and he had said "that he could not afford to sell himself and family," and instructed Ector to have nothing to do with it. Bickford was somewhat angry at this turn of events and felt that Ector had not fulfilled his part of the agreement.⁷⁷ There was nothing left for Bickford to do, then, except to take the money back to Charlie Clark.

But the Clark forces did not know the meaning of defeat. They were persistent in the pursuit of their quarry, and it was not long before

⁷⁶Bickford in his testimony admitted that he had brought \$7,000 to Missoula which he offered to Ector. When asked why he did this he said, "...I made arrangements to obtain, for the purpose of using it to prevent the indebtedness of Mr. Woods going into the hands of Mr. Daly's friends, the sum of \$7,000 with which to take up that indebtedness." In other words it meant that he was afraid the Daly forces would buy Woods' indebtedness and use it as a leverage to compel him to vote against Clark. Bickford claimed that Woods knew nothing at all about this plan, and that Dr. Ector as Woods' friend was competent to perform this whole transaction. This all seemed rather queer, when one realizes that Ector was a dentist and not a lawyer and therefore unused to legal transactions, whereas Bickford, as a lawyer, was doing this sort of thing often; and further that the mortgage itself was reposing in an office in Butte, just a very few doors from Bickford's own headquarters. Bickford also claimed that in talking the situation over, Ector decided that there was no danger of the indebtedness going into the hands "of the people on the other side"; that he had "not heard of any efforts being made in that direction of late"; and that it was therefore not necessary for them to purchase the indebtedness, so the money was not turned over to Dr. Ector but was taken back to Charlie Clark. Senate Report, Bickford's Testimony, Part II, pp. 1328-9.

⁷⁷Ector, in this connection, mentioned that while he was in Helena, when the Legislature was in session, that Bickford had very little to say to him, no doubt still feeling that if Ector could not carry out his part of the agreement concerning Woods, that he was hopelessly incapable of the more delicate tasks of bribing the other legislators.

Woods had been "landed." Connolly described it this way: "...the hounds kept in full cry upon Woods' trail, and returned from the chase with blood on their noses."⁷⁸ But it was not Ector who had accomplished the deed--he had failed; consequently he was unable to get much money for his services. On January 4, 1899, Bickford wrote to Ector telling him that if he needed a hundred dollars to draw on him for it. Ector lost no time and got his money the very next day.⁷⁹ Bickford gave him an additional hundred and fifty dollars on January 21, 1899, for which he compelled Ector to sign a receipt in full for "all demands up to date."⁸⁰ But Ector was not satisfied with only \$250. He had not forgotten that Bickford had promised him "ten per cent."

He wrote continuously to both Clark and Bickford for more money. On March 1, immediately after the adjournment of the Legislature, he wrote to Bickford saying, "How about the 10 per cent?" And again on April 8 he wrote him: "I wrote you several weeks ago about the promise you made me of 10 per cent, but have not heard from you yet. Have you forgotten it? Please let me hear from you soon."⁸¹

Ector did not write to Bickford again until July 24, 1899, when his letter contained a sort of veiled threat. Among other things he said:

⁷⁸Connolly, op. cit., p. 36.

⁷⁹Senate Report, Part I, p. 405; and Part II, p. 794.

⁸⁰Ibid., p. 796.

⁸¹Senate Report, Part II, p. 796.

"...I've come to the conclusion that it's useless for me to wait longer for Mr. Clark to do anything for you, and so thereby for me.

"I let one chance last winter go by whereby I could have made a stake and now I have another. While it's true I can't get five thousand dollars, I can get enough to pay all my debts and have something left, and I can't afford to let this chance pass. While if I don't do something soon it will be too late, and I'm not going to wait longer."⁸²

Bickford chose to ignore all of these appeals. He undoubtedly thought that such a course was better than attempting to engage in an argument; besides he had a receipt in full signed by Ector, and he probably figured that \$250 was enough to pay for Ector's services in getting Woods elected. Ector had failed to influence Woods to accept the \$7,000 bribe, so deserved nothing on that account and, even though he was in Helena during the legislative session, his work there had been inconsequential--at least, so reasoned Bickford.

But Ector, in the meantime, being dissatisfied with Bickford, and not wishing to let any possibility escape that offered a chance for more money, began writing to W. A. Clark. His first letter asking for remuneration was written as early as March 29, 1899. After explaining what he had done to aid in getting Mr. Woods elected, he said:

"...we swung them (meaning the Catholics of Ravalli County) in line, thereby electing Mr. Woods in spite of 'Our Boss Daly.' It's true, without your money, it could not have been done. What did I get? Promises. Nothing more. Then, I moved down here right after election, and put in my time as best I knew how, doing work for the cause that I hope will some day forever remove the cause of Dalyism from our fair land.

⁸²Ibid., pp. 796-7.

"Then I went to Helena and did what I was told would help our cause, and while there wished to meet you, for I had learned of the scheme hatched out at Hamilton to spring a bribery cry on you, but was told you had no time to be bothered by me and was laughed at about what I said about the bribery scheme I found out. (It came out just as I heard it would.) When I came home, two Daly men came to see me at different times, and said, 'there is at least five thousand dollars in it for you if you can find out anything about the Clark side.' Now that was a big temptation to one who was sending a few dollars a month to Idaho to pay debts long outlawed, but just as honestly due. I knew then what Massena Bullard⁸³ had in his safe, besides lots of other things. This is not to show at all how I deserve any consideration at your hands, but it does seem to me that I ought to be treated in a fair way; and, as man to man, Mr. Clark, I'll leave it to you to say if you think that two hundred and fifty dollars is enough for my time and expenses. When I signed Mr. Bickford's receipt in full he then and there further promised me to do better by me. I know if I could see you personally it would be all right, but when you refer me to others it's different, and you are the only man I hope for help, and I will always be willing to show my appreciation for your assistance."⁸⁴

Clark, being abroad at this time, answered this communication from Paris on April 17, 1899. He wrote:

"I have your valued favor of the 29th ultimo and note contents. I expect to return next month to Montana, when I will take up the question which you suggest with people who are acquainted with the facts. I have no knowledge whatever of what was done in the matters you refer to. It is my desire that anyone who performs a service for me should be amply

⁸³Massena (also spelled Messina) Bullard was a lawyer who lived in Helena and who was a step-brother of E. P. Woods.

⁸⁴Senate Report, Ector to Clark, March 29, 1899, Part II, pp. 797-8. Two other things in this letter were interesting. In one place Ector referred to Daly as the "Irish King." He also referred to a proposed visit to his home of Senator H. M. Teller of Colorado. Teller was a first cousin of Ector's wife (Teller's mother being a sister of Ector's father-in-law). In this connection Ector said, "...if there is any way I can be of use to you through Mr. Teller, let me know it and what to do, and I will be only too glad to do so." But all Clark answered to this was, "I note Senator Teller was expected to visit your section, and I trust you had a pleasant visit with him."

remunerated. But knowing nothing as to the facts and conditions, of course I am unable in my own mind to form a definite opinion as to what should be done."⁸⁵

It will be noticed that in this answer Clark paid no attention whatever to Ector's statement of the Daly offer of \$5,000 for giving information on the activities of the "Clark side."

Ector again wrote to Clark on August 2, 1899, in which he reiterated concerning the \$5,000 offer, saying that "it was a big temptation to a poor man"; that he was in debt, and that debt was a hard taskmaster. He ended by saying:

"What I did then in order to help you may or may not [have] been of any practical use, still I did all I was told, or asked; in fact, all I could do, and believed then that I would be well paid for it (because I must say the money consideration was all I cared a thing at all about), and do believe yet that if I could get you to hear me I would be well paid. Mr. Clark, please attend [to] this your own self, for I'm tired of the promises of the men around you. This means a great deal to me."⁸⁶

Clark apparently was getting to the point where he could no longer relish this correspondence, so he ignored this letter. Ector permitted nearly three months to elapse before he again wrote, this time on October 31, 1899. By this time Ector was also becoming angry. His communication was at least terse. He said:

"I wrote to you...concerning promises made by you and Mr. Bickford to me while the election was in progress and have had no answer, though it's been some weeks since I last wrote. I wish to know if I am to expect anything from you or not. Please let me know soon."⁸⁷

⁸⁵Senate Report, Clark to Ector, April 17, 1899, Part I, p. 411.

⁸⁶Senate Report, Part II, p. 799.

⁸⁷Ibid.

Clark's reply written on November 8 was just as brief:

"I received your valued favor of the 31st ultimo, and in reply I beg to state that, as I have written you heretofore, I know nothing whatever of any agreements or promises made you by anyone in my employ; hence I will have to refer your letter to Mr. W. M. Bickford. I expect always to respect every agreement I make, and invariably do so."⁸⁸

This ended the correspondence. In less than a month Congress was in session and getting ready to investigate Clark's title to his seat. Clark was evidently not worried about Ector's selling any secrets to the Daly faction--certainly not enough so to pay Ector any more money. Senator Burrows quizzed Ector about the amount of money he had received as follows:

"Senator Burrows: Is \$250 all you got out of it?

"Mr. Ector: Yes, sir.

"Senator Burrows: You never got another dollar?

"Mr. Ector: No, sir.

"Senator Burrows: That is pretty cheap.

"Mr. Ector: Yes, sir; that is right."⁸⁹

Mr. Birney, one lawyer for the prosecution, questioned Ector closely about the alleged Daly offer:

"Mr. Birney: You speak of having been offered \$5,000 by the Daly side. Is that the fact?

"Mr. Ector: No, sir; it was not a fact. It was a bluff."⁹⁰

But W. A. Clark was not to be bluffed.

⁸⁸ Senate Report, Part I, pp. 411-2.

⁸⁹ Senate Report, Part II, p. 806.

⁹⁰ Ibid., p. 815.

There is no doubt but that Ector, in turning all this correspondence over to the investigating committee, was nourishing a spirit of revenge. Senator Chandler asked him, "Did you have a little feeling of indignation or animosity because they had not paid you more, which led you to give up these letters?" And Ector answered, "I did."⁹¹ Ector also admitted that the prosecution had advanced him \$100 to help defray his expenses in the trip to Washington, but that he had been promised no further consideration.⁹²

The intimate details of just how Woods was finally "landed" can only be surmised. Ector had written in one of his letters to Clark that he knew what was in Messina Bullard's safe. Since Bullard was a Helena lawyer and step-brother of Woods, some Clark agent⁹³ must have negotiated with Bullard to keep the money for Woods until he had fulfilled his part in voting for Clark. Neither Woods nor Bullard testified before the Senate Committee. Woods was wanted, and quite badly, but no one seemed to know his exact whereabouts. When Senator Chandler asked about him, Mr. Hartman for the prosecution said that he was unable to locate him except that he had gone to California. Mr. Faulkner for the defense said:

"The witness for the prosecution (Dr. Ector), you will remember stated distinctly that Mr. Woods declined to accept anything...and our evidence is that there was no conversation or knowledge upon the part of Mr. Woods at all of this

⁹¹Ibid., p. 814.

⁹²Ibid., p. 813.

⁹³Probably Bickford, Davidson, or Wellcome.

transaction. So I did not see any necessity to bring Mr. Woods here."⁹⁴

In truth Senator Faulkner did not want Mr. Woods placed upon the stand, nor did Mr. Woods wish to be placed there. Many other subpoenaed witnesses were furnished with money, by Clark's agents in Montana, to cross the border into Canada where they could remain until the investigation was completed.⁹⁵

After voting for Joseph K. Toole on the first ballot, Woods began voting for Clark on the second and continued to do so on every ballot until Clark's election. Woods was a poor man when he first went to the Legislature--it has already been noticed that he was tremendously in debt.

James W. Kemper, a real estate agent of Butte and a cousin of Mrs. Woods, had actually bought and paid for Woods' ranch in 1892. Mr. Kemper held a deed for the ranch which had been recorded in his name, and all Mr. Woods and his wife had was a contract for a deed contingent on the payment of money to Kemper. Mr. Kemper said that he had paid \$5,800 for the

⁹⁴Senate Report, Part II, p. 1512. Senator Faulkner also said that he "thought the evidence both of the prosecution and the defense perfectly vindicated Mr. Woods." The findings of the Senate said that Woods had gone to New Mexico rather than California. See Senate Report, Part I, p. 4.

⁹⁵Connolly, op. cit., p. 203. In this connection two other witnesses were wanted who were never found--one was D. G. Warner, a State Senator from Jefferson County, and P. J. (Swede) Murphy, of Butte, a sort of "go-between" for the Clark forces. Murphy had actually come to Washington, but very shortly after his subpoena was issued he left for parts unknown. Senator Chandler was very disgusted with his disappearance and on one occasion remarked, "I want 'Swede' Murphy to be examined before this case ends." Chandler claimed that the newspapers could find him if they wanted to very badly. Murphy was heard of once in Cleveland, Ohio, but the report came a week too late; and he never was found. See Senate Report, Part II, pp. 733, 791, 1511-2, 1338.

ranch⁹⁶, and that by February 1, 1899, or thereabouts, Woods was in the neighborhood of \$1,000 in arrears on the interest payments. He was charging interest at the rate of one (1) per cent per month.

On or about March 1, 1899, Messina Bullard, Woods' step-brother from Helena, went over to Butte and paid Kemper \$6,900 which included both the principal and interest. For this Kemper gave him a deed made out to Woods' wife, Mrs. Lizzie F. Woods.⁹⁷ When quizzed more in detail about this transaction Kemper said,

"Well, he [Bullard] asked me if the money would be acceptable to me at that time, and I told him it would. He said he could get the money at a lower rate of interest from Eastern capitalists and if I wanted the money he would pay me; it was [done] at Woods' request...."⁹⁸

Kemper also claimed that, as near as he could remember, Bullard gave him a check, but that he couldn't be positive, and that the deed was never recorded. To all appearances it would seem that the principals in this case were anxious to cover up the entire transaction. But this was not all.

Nearly a year later, January 29, 1900 (as near as Kemper could remember) the ranch was sold to Gibbon F. Strange and Abraham P. Williamson. Each one received a separate deed for eighty acres made out directly to him from Kemper. He claimed that he received ten or fifteen dollars' commission for making this transfer; that Woods owed Strange \$200; and that,

⁹⁶Kemper here might have been slightly mistaken in his figures. He claimed the price was \$35 an acre for 160 acres. This amount would total \$5,600. See Kemper's testimony in Senate Report, Part III, p. 2464.

⁹⁷Her real name was Elizabeth.

⁹⁸Senate Report, Part III, p. 2465.

including that debt, Woods received in all \$9,750.⁹⁹ When Kemper made out these two deeds there were no incumbrances of any sort upon the ranch, which in itself indicated the mythical character of the "Eastern capitalists." The old deed made out by Kemper to Mrs. Woods was burned by him in the presence of Mr. Woods. Senator Hoar wanted to know how Bullard was "taken care of in that transaction for the money that had already been paid" to Kemper, but Kemper professed ignorance of this, saying: "They said they would fix it all right with Bullard, or words to that effect. I do not remember."¹⁰⁰

It will also be remembered that Woods owed \$1,000 to John L. Mills.¹⁰¹ This money had been borrowed on November 12, 1898, and part of it had been used by Woods to pay his expenses in Helena. The loan was secured by a chattel mortgage on "300 head of sheep and all their increase, and 58 head of cattle and all their increase."¹⁰²

This loan was due one year after it was taken, which would be November 12, 1899. Just what day it was paid is not known, but the release of the mortgage was filed in Missoula County on April 29, 1899, which was almost exactly two months after the Legislature had adjourned, and nine months to a day before the ranch was sold to Strange and Williamson. So the question will always remain: Where did Woods get the money?

⁹⁹Ibid., pp. 2466-7.

¹⁰⁰Senate Report, Part III, p. 2468.

¹⁰¹In Ector's letter to Biddeford, he spoke of a chattel mortgage of \$1,000. Senate Report, Part I, p. 183.

¹⁰²Senate Report, Part III, pp. 2472-3.

The Jefferson County Senator, D. G. Warner, was known as a "sage and political soothsayer."¹⁰³ He received \$15,000 for his vote for Clark by means of some rather peculiar real estate transactions. He was aided in these deals by the Jefferson County Attorney, Thomas T. Lyon.¹⁰⁴

Before the November election (1898) Warner and Lyon went over to Anaconda to see Marcus Daly and possibly obtain money to aid in the election of the Democratic candidates in Jefferson County.¹⁰⁵ They did not see Daly but they did see John R. Toole, who refused to help them. He explained that if he gave them aid the facts would soon be known to the general public, and the accusation would be that they had been to Anaconda and gotten some "boodle." Toole further indicated that they should rely upon the State Democratic Committee and their friends in Jefferson County. But this was not comforting. Lyon and Warner then decided to see the Clark faction, so stopped at Butte on their way back to Boulder.

At Butte they found what they were looking for--money--and from John B. Wellcome.¹⁰⁶ Shortly after Warner was elected, the real negotiations began--that of obtaining Warner's vote for Clark for United States Senator.

¹⁰³So-called by Connolly, op. cit., p. 34.

¹⁰⁴Connolly erroneously speaks of Lyon as a representative.

¹⁰⁵Senate Report, Part III, Campbell's Testimony, p. 2354; also John R. Toole's, p. 2152.

¹⁰⁶Lyon denied that they stopped in Butte on the return trip but admitted that Wellcome gave the county central committee \$200 about two weeks later. Senate Report, Lyon's Testimony, Part II, p. 1026.

Warner was a poor man. He had lost some money when the First National Bank of Helena had failed a few years before, and he had been compelled to borrow \$500 at the Bank of Boulder in December just before the Legislature convened. But he owned some town lots in Boulder and a small ranch a few miles from the town. It was this real estate that he proposed to sell to Clark at a fabulous price. Lyon, as agent for Warner obtained a letter of introduction to W. A. Clark from a Boulder resident named Gaffney.

When Lyon told Clark what Warner wanted, Clark indicated that he could not do anything himself, that is, pay out money or anything of that kind; but he referred him to his son Charles and John B. Wellcome, saying that whatever they agreed to do would be satisfactory to him and would be carried out.

Lyon then took Warner to Wellcome's office where he introduced Warner to Charlie Clark and left them alone to talk over the details of the transaction. When Lyon returned Warner had left, but Charlie Clark was in ill humor. He said to Lyon: "The old _____ wants \$15,000." "He does?" said Lyon, in feigned surprise. "Yes; and the trouble about it is, I have got to give it to him," said Charlie.¹⁰⁷

Charlie then asked Lyon if he would act as trustee of the property to cover up the transaction, but Lyon said he preferred not to become involved in any paper transaction that might place him within the pale of the law. Charlie later decided to have E. L. Whitmore, his Butte agent, act as the trustee.

¹⁰⁷Connolly, op. cit., p. 34; Senate Report, Nolan's Testimony, Part III, p. 2114.

On the 30th of December (1898), Lyon, having drawn up the deeds for Warner, turned them over to Whitmore for an acknowledged price of \$7,500. Warner received his money in cash during the first week of January, after the Legislature was actually in session.¹⁰⁸ On the 8th of January Warner paid his \$500 note at the bank and deposited an additional \$8,000.

Warner voted for Clark on the first ballot but for Conrad on the second; just why this switch should have taken place is hardly explainable, since the exposure happened before the first ballot was taken. Warner quickly returned to the Clark allegiance, however--he voted for him (Clark) on the third ballot and on through until the end. After the session was over Warner disappeared, presumably for California, as it was known that he had some money in a bank there. He had shown his bank book to a young man named Frank Bingham.¹⁰⁹

Just what explanation could Clark or his agents give for the purchase of Boulder real estate? Charlie Clark himself knew nothing about either the town lots or the ranch, and E. L. Whitmore, the agent, who did know something about the lots, knew nothing about the ranch. Whitmore claimed that the transaction took place for the following reason:

"It had been rumored that Mr. Heinze¹¹⁰, who owns a large smelting plant in Montana, was going to move down within the neighborhood of Basin or Boulder. I have been somewhat connected

¹⁰⁸For the testimony concerning this transaction in the Senate Report, see that of Whitmore, Part III, pp. 2481 and ff.; of Charlie Clark, p. 2075; of Lyon, Part II, pp. 1027-9; and of Campbell, Part III, pp. 2352-5.

¹⁰⁹Senate Report, Campbell's Testimony, Part III, p. 2355.

¹¹⁰Augustus P. Heinze, another copper magnate, and rival of Clark.

with Mr. Heinze, and I knew something about his dealings. He had some trouble in Butte, a big law suit over his tailing dumps. He did not have room enough for his plant...I thought it would be a pretty good scheme if we could pick up a whole lot of land cheap down there and grow up with the town; and when Mr. Warner spoke to me about these lots, I suggested to Mr. Clark it would not be a bad gamble."

Clark then told him, he said, to go ahead and buy it.

When Whitmore was asked why he thought it necessary to take over the property in his own name, he answered:

"...it is very well known in Montana that if either Mr. Charles W. Clark, or Mr. W. A. Clark, or Mr. Daly was to buy a property themselves, the people think they have got to have it, and they ask big prices; and, as a rule, that is all done through agents. I have bought a great many Properties for Mr. Heinze and for Mr. Clark, and also for the Montana Mining Company."¹¹¹

But this same property was sold just a year later for taxes.¹¹²

There was no attempt to cover up the payments made to the three representatives from the same county (Jefferson). The memorial of the citizens of Montana to the United States Senate charged that all three of them had been bribed: that H. M. Hill received \$10,000; T. H. (Pat) Luddy, \$10,000; and that W. H. Lockhart had had an indebtedness of \$5,000 discharged by W. A. Clark.

Lyon also aided in lining up Luddy to vote for Clark. Luddy went to Butte where he saw Charlie Clark and negotiated his vote for

¹¹¹ Senate Report, Whitmore's Testimony, Part III, p. 2482.

¹¹² Connolly, op. cit., p. 35.

\$7,500.¹¹³ The money was deposited for Luddy in the Butte bank of W. A. Clark & Bro. During the session Luddy became quite uneasy and asked Charlie Clark and Wellcome if it would not be possible to bring the money to Helena and deposit it in the Montana National Bank. This was agreed to--the money was placed in an envelope and was to be delivered to Luddy at such a time as Lyon indicated. Luddy actually stood on the opposite side of the street from the bank so he could watch this affair transpire. He had become extremely suspicious.¹¹⁴ It is interesting to note in this connection that neither the president of the bank, Albert L. Smith, nor the cashier, Thomas C. Kurtz, could remember anything about this transaction.¹¹⁵ Luddy voted for Clark on every ballot. His was one of the three votes that Clark received in the House on the first ballot.

Probably the oldest member of this famous legislative body was H. M. Hill of this same county who was nearly 80. Lyon represented him as being a particular friend of his, and that he would vote for any Senatorial candidate that Lyon named. Lyon claimed that the Democratic County Convention had actually nominated Dr. Haviland, but that he had withdrawn. Then Lyon, as chairman of the Democratic committee, called a meeting and

¹¹³Senate Report, Nolan's Testimony, Part III, p. 2114. He quoted what Lyon had told him. Lyon, in his testimony, admitted talking to Nolan and Campbell, but denied having any part in these transactions. He claimed that Campbell and Nolan tried to bribe him to commit perjury before the Senatorial Committee--that is, to testify to falsehoods against Clark and his agents. Senate Report, Lyon's Testimony, Part II, pp. 1027 and ff.

¹¹⁴Senate Report, Nolan's Testimony, Part III, p. 2116.

¹¹⁵Senate Report, Smith's Testimony, Part II, p. 773; and Kurtz's, Part III, p. 2293.

suggested that Hill be placed upon the ticket, so it was done.¹¹⁶ All through the investigation Lyon was very solicitous about Hill. He shielded him at every opportunity. Yet apparently the money that Lyon received for rounding up these votes came out of Hill's \$10,000. Lyon told Henry G. Rickerts, the Clerk of the Montana Supreme Court (January 10, 1899) that Hill would vote for whomever he named, and that Hill did not expect any money. But Lyon continued, "...that is where I expect to get my money, but I haven't got it yet."¹¹⁷

Lyon told Campbell he had given Hill \$500 before the election, and he thought that the old man might just as well get something out of it as the rest of them, so he had gotten \$5,000 from either Charlie Clark or Wellcome and had given it to him.¹¹⁸ Hill did not vote on the first ballot, and voted for Toole on the second; but beginning with the third ballot he commenced voting for Clark and continued to do so until the end of the session.

After the adjournment of the Legislature Lyon again saw Rickerts. He was quite happy at that time. He told Rickerts that he had \$2,000 deposited in a bank in his wife's name, that he had another \$1,000 to pay off the mortgage on his home, and that he had some money left.¹¹⁹

¹¹⁶ Senate Report, Lyon's Testimony, Part II, p. 1024. M. L. Hewett also testified that Lyon had helped to secure the votes of Warner, Hill and Luddy. See Hewett's testimony, Ibid., p. 518.

¹¹⁷ Senate Report, Rickerts' Testimony, Part III, p. 2278.

¹¹⁸ Senate Report, Campbell's Testimony, Part III, p. 2354.

¹¹⁹ Senate Report, Rickerts' Testimony, Part III, p. 2278.

Not a single member of the Jefferson County delegation testified before the investigation committee. Lyon's testimony is somewhat lengthy but, because at one time he was going to testify for the memorialists, and then later decided to keep his allegiance with the Clarks, who probably bought it back, it is so full of contradictions with other testimonies that it is almost worthless.

Very little testimony was given regarding Mr. Lockhart. His partner, Mr. George H. Casey--silent partner, he called himself--testified to a loan which Lockhart had negotiated at Clark's bank at Butte. Casey, Lockhart, and Angus Clunie were partners in several business enterprises, mostly mining and ranching, under the firm name of Lockhart and Clunie. In July, 1899, according to Casey, Lockhart borrowed \$7,000 on his personal note without security from the bank of W. A. Clark & Brother at Butte.¹²⁰ Casey admitted that it was a firm note, but Lockhart was the only one who signed it. He (Casey) testified on February 5, 1900, and at that time the note had not as yet been paid. Whether or not it was ever paid must be a matter of conjecture, but very likely it never was. Lockhart began voting for Clark on the second ballot and continued to do so until the end.

Broadwater County sent to the Legislature W. E. Tierney as State Senator, and W. C. Eversole and Michael Shovlin as Representatives. All three of these men accepted money for supporting Clark. They worked together, both at the session and later. Tierney was one of the four Senators who voted for Clark on the very first ballot and continued to do so

¹²⁰Senate Report, Casey's Testimony, Part II, pp. 1177-9.

throughout the entire session. Eversole and Shovlin each voted for Clark for the first time on the sixth ballot, and each absented himself from the session for some of the early ballots. Shovlin did not vote from the second to the fifth inclusive, nor did Eversole from the seventh to the tenth inclusive. But their later ballots were all for Clark.

Wellcome told Whiteside that Tierney was going to vote for Clark, and that he was to get \$10,000 for it. Wellcome also indicated that Tierney was going to organize a bank in Townsend, that the Clarks had advised him to, and that they had agreed to take some stock in it.¹²¹ The memorialists claimed that Tierney received \$15,000.

Prior to the meeting of the Legislature, Mr. Tierney could hardly have rated as a rich man. He was a merchant and part owner of two stores in Townsend: W. E. Tierney and Company, and A. M. Darcy and Company; also there was a branch store of W. E. Tierney and Company at Hassel where Eversole worked as a clerk. The A. M. Darcy Company had owed \$10,000 to Hyatt and Dolenty, Bankers (successors to the Bank of Townsend) for several years. Mr. Dolenty figured that Tierney was possibly worth as much as \$5,000 before the Legislature met, but after its adjournment his assets had suddenly jumped to at least \$15,000.¹²² The \$10,000 indebtedness was all paid during the year of 1899. On March 16, a deposit of \$1181.75 was made to cover an overdraft of \$1179.85; \$979 of this deposit was in currency and included in it was one \$500 bill. The rest of the indebtedness

¹²¹Senate Report, Whiteside's Testimony, Part I, pp. 99 and 154.

¹²²Senate Report, Dolenty's Testimony, Part II, pp. 890 and ff.

was paid as follows: On June 3, Mr. Tierney paid \$2381.85 in cash; on June 22, a check of the A. M. Darcy Company paid \$3,293, this being the result of some previous deposits; and finally, on November 11, another check of A. M. Darcy and Company paid \$2,729.68. Mr. Dolenty further testified that some of the currency deposited from time to time by Mr. Tierney was wet and sandy--apparently it had been buried. Tierney stopped banking with Hyatt and Dolenty on May 31, 1899, and went into the banking business on his own account on the very next day, June 1. Yet, as has been shown, he had not at that time paid off all of his loans. According to Dolenty, Tierney's new bank was capitalized at \$25,000; and Tierney himself subscribed for \$6,000 worth of the stock.¹²³

When Tierney was called to the stand to defend himself, he did not make a good impression. He became pretty badly tangled up in his own statements and explanations when he came under a barrage of rapid-fire questions from Senators Chandler, Hoar, and Turley, in addition to the counsel, Mr. C. S. Hartman. He did not have a scrap of documentary evidence to prove a single statement that he made. When he was reminded by Senator Chandler that aspersions were cast upon him in connection with his vote for Senator Clark, he admitted that he knew that but he didn't think he would be called upon to testify.¹²⁴

Tierney claimed that he had been worth between \$40,000 and \$50,000 for the past fifteen years, that he was no better off after the Legislature

¹²³Ibid.

¹²⁴Ibid., Tierney's Testimony, pp. 1468-98.

adjourned than he was before it met, and that no one had ever even asked him to vote for Senator Clark. He said that Mr. Dolenty had not been friendly to him for a long time, and that the feeling had become worse after he had won the State Senatorial nomination at the Democratic County Convention. Mr. Dolenty had been his chief opponent. The loans to Hyatt and Dolenty, Tierney explained, had been paid off because his own new State Bank of Townsend had taken over the loans. He admitted that he was a director of the new bank and owned a stock in it to the amount of \$5,800. But the difficulty he had was to explain just where he had obtained that money. Tierney claimed that the money was in the safe of A. M. Darcy and Company where he had placed it at different times when he had consummated some business deal. He said the money would have a slip pinned on it indicating that sometimes this money would be recorded on the firm's books and sometimes it would not. Senator Hoar prodded him a good deal about this peculiar method of bookkeeping.

Tierney claimed that \$1,600 of the \$5,800 came from Mr. W. C. Eversole who purchased Tierney's interest in the Hassel store. Eversole, according to the memorialists, had gotten \$10,000 for his vote, and he had purchased \$1,000 of stock in the new bank. Tierney did not know where Eversole had gotten the \$1,600 but supposed he had made it in the Hassel store. Tierney then claimed that he had sold some horses for some of the money--at one time he said he received \$2,000 for them and at another \$1,300; plainly he was confused. Then he said he sold some other property to the Diamond Hill Company for \$1,500. But all this did not amount to \$5,800 and he never did account for the rest of it.

When quizzed about the rest of the stockholders in the new bank, Tierney's memory was quite faulty. He never did account for all of it. As Connolly says, "...the bank rose like a phoenix from the ashes of the Legislature."¹²⁵ Tierney's nephew, John P. Kearns, took \$4,000 worth of stock and became cashier of the bank. Kearns' two sisters each took \$1,000 worth, and his mother the same amount. Tierney claimed that this money for the stock from these relatives had come from Benton, Wisconsin, and that this family was worth \$30,000 or \$40,000 in Wisconsin. Yet Kearns had come to Montana about two years before and had been employed as a clerk in Marcus Daly's store at Hamilton. Tierney denied that Senator Clark or any of his agents had either helped organize the bank or bought any stock in it.¹²⁶

Mr. J. R. Marks, a partner of Tierney in W. E. Tierney and Company, took \$1,000 of stock, and a similar amount was purchased by Miss Alice M. Darcy, a partner in A. M. Darcy and Company. Then Michael Shovlin, the other member of the Legislature, took \$1,000 worth. The memorialists accused Shovlin of accepting \$7,000 from the Clarks. No doubt the amount was underestimated because on March 2, 1899, the day after the adjournment of the Legislature, Shovlin deposited \$8,500 in the Montana National Bank at Helena.¹²⁷ Neither Shovlin nor Eversole testified before the Senatorial Investigating Committee.

¹²⁵Connolly, op. cit., p. 36.

¹²⁶Senate Report, Tierney's Testimony, Part II, pp. 1468 and ff.

¹²⁷Senate Report, Testimony of Thomas C. Kurtz, Part III, p. 2317.

To sum up, Mr. Tierney, his relatives, partners, and legislative colleagues took approximately \$17,000 worth of the stock of a bank which was capitalized at \$25,000. And the bank was opened for business exactly three months after the adjournment of the Legislature.

.....

One of the representatives from Madison County was B. J. Fine. While being questioned on the witness stand, it was difficult to obtain anything very definite from him. He made a rather poor impression. When questioned about his financial condition he tried to give the impression of affluence. He said he did not know how much money he had when the Legislature opened--maybe \$100, or maybe \$1,000.¹²⁸

After considerable questioning, Fine admitted that he deposited \$2,000 in the bank of Hall and Bennett at Virginia City about the 1st of June, 1899. This was in currency, he said, and contained at least one \$500 bill. After the Legislature adjourned Mr. Fine claimed he was hired by Senator Clark to do some work for him, and that from then until the time he was testifying he had received altogether about \$3,500. He had received about \$2,000 of this sometime during May¹²⁹ from Mr. Alex Johnson at the bank of W. A. Clark and Brother at Butte. He had signed a note for it, he said, but he had never paid it and did not expect to. Fine voted for Toole on the first two ballots, but voted for Clark on every other one throughout the session.

¹²⁸Senate Report, Fine's Testimony, Part II, p. 824.

¹²⁹Ibid., pp. 827-8.

The job that Mr. Fine was doing was rather interesting. He was working up evidence to be used against W. A. Clark of Madison County, with a view of disbarring him. Part of Fine's work, so he said, was to find witnesses that would impeach him (Clark) and Fine was expected to use part of the money to pay the expenses of these witnesses when they attended a trial. Fine further testified that Clark (of Madison) had forged, or at least altered, the records of the court in Madison County in two cases¹³⁰: that of Henry Elling vs. Henry S. Gilbert, a foreclosure case; and that of George Thurp, deceased, an administration of an estate.

Clark of Madison was called to the stand to refute Fine's testimony. Clark said that Fine's statement in regard to Elling vs. Gilbert was false, and that Fine knew it was false when he made it.¹³¹ Clark said he had made the alteration, but by the order and permission of the court; and he brought with him a certified copy of the court record, which he offered in evidence, to prove it. In the Thurp case, Clark insisted that he made no changes whatever and offered the original documents to prove that also.¹³² By these proofs Clark was completely exonerated, thus leaving Fine in the position of attempting to create a frame-up.

Under further questioning, Fine told about the rest of the "wages" he had received for his "services." In addition to the \$2,000 already mentioned, Fine received \$500 during the middle of the summer for his "expense

¹³⁰Ibid., Fine's Testimony, pp. 841-3.

¹³¹Senate Report, Clark's Testimony, Part III, p. 2239.

¹³²Ibid., Clark's Testimony, p. 2242.

account." Then in November he received another \$2,000, of which \$1,200, he said, was used in getting witnesses and working up evidence. On the 26th of December he received \$500 more to come to the East. This made a total of \$5,000, whereas he said he had received a total of about \$3,500. On this point he was brought to task by Senator Turley. He then answered that he thought that the amount asked for had only meant up to the time of the Wellcome disbarment proceedings, and that he had just estimated it, and further that he could not recall positively just what the amount was.¹³³

The Senator from Sweet Grass County was a minister--a Democrat named W. J. Hannah. At the time of his election he was in the Philippines serving as a private in the United States Army--in the Montana regiment. In a conversation between John S. M. Neill and Whiteside, Neill declared that Clark's workers had sent \$2,000 to Hannah at Hongkong. He arrived in Montana just prior to the meeting of the Legislature. Neill said the Clark forces were confident of Hannah's vote when they needed it.¹³⁴ Hannah began voting for Clark on the twelfth ballot and then never deviated.

It seems that Mr. Thomas Ross of the Ross-Dyer Mercantile Company of Big Timber had come to Helena during the session, also for the purpose of talking to Hannah. Senator Clark claimed that he had previously loaned this company \$35,000 for three years at ten per cent interest, and that it had given him security and was prompt in its interest payments. Clark could not remember that Ross had come to Helena, however. This same company

¹³³Senate Report, Fine's Testimony, Part II, pp. 843 and ff.

¹³⁴Senate Report, Whiteside's Testimony, Part I, pp. 97 and 149. Neill denied that this conversation took place; see his testimony, Part II, p. 1565.

also started a newspaper in Big Timber which was friendly to Senator Clark. After the Legislature adjourned, Mr. Hannah became the editor of the paper. Senator Clark vigorously denied that there was any connection between his loan to the Ross-Dyer Company and Senator Hannah's receiving a position on that company's newspaper.

A few years later Senator Hannah was scheduled to give a lecture to the students of Montana State College, but was prevented from doing so when Walter Hartman protested at a meeting of the trustees. Hartman, who was a brother of Charles Hartman, former Montana Congressman and one of the prosecuting attorneys, was astounded to hear the announcement. "What?" he exclaimed, "Do you mean that old bribe-taker from Big Timber?" The others then remembered and Hannah's engagement was cancelled.

In the memorial of the citizens of Montana to the United States Senate, Hannah was accused of accepting \$15,000 for his vote, but there was no testimony given concerning the rest of the money.

.....

The two legislators from Valley County were Senator A. W. Mahan and Representative J. L. Truscott. Mahan was charged by the memorialists with having received \$10,000 for his vote. He began voting for Clark on the fifth ballot. Whiteside told of his conversation with Wellcome concerning Mahan.¹³⁵ Wellcome said that they were negotiating with Mahan but that he wanted too much money; that he could get \$15,000 from Conrad. Wellcome then asked Whiteside what he thought about it. Whiteside answered that he

¹³⁵Senate Report, Whiteside's Testimony, Part I, pp. 97-98.

thought Mahan was lying but that he (Wellcome) could use his own judgment about it. Wellcome denied that this conversation with Whiteside ever took place.¹³⁶

According to Whiteside, Representative Truscott was handled by the same Clark henchman who handled Mahan, but Whiteside could not remember who Wellcome said it was.¹³⁷ Truscott was not listed by the memorialists as one who had accepted any of Clark's money. But he was under suspicion, nevertheless. He began voting for Clark on the third ballot, after voting for J. K. Toole on the first two; he continued to vote for Clark then throughout the session, except the fourteenth, when he did not vote at all.

The attorneys for the memorialists seemed to have some information about the subterfuge used in the case of Truscott. To obtain the facts, David G. Brown, a cattleman of Fort Benton, Montana, was subpoenaed to testify before the committee. He was a Democrat and admitted that he was a Clark supporter and always had been. But little was obtained from him--he denied everything. The questions asked him by the lawyers were more elucidating than his answers. From these one can gather that one of Clark's henchmen placed some money in the bank at Fort Benton credited to Brown's account, which was to be transferred to Truscott later. The first amount mentioned was \$20,500 and the time was January, 1899.

No amount of questioning could shake any information from Brown. Nor could anything be proved against him, as he had no records from the

¹³⁶Senate Report, Wellcome's Testimony, Part III, p. 1963.

¹³⁷Senate Report, Whiteside's Testimony, Part I, p. 110.

bank with him. He said the check book he carried only showed disbursements. When asked if he could not send for his bank book, he said no, that it was locked up in Great Falls and there was no one to whom he could send a letter asking for it.¹³⁸

.....

Dr. J. H. Johnston was a representative from Carbon County. In private life he was a physician so, according to Whiteside¹³⁹, he was promised a position as company doctor at one of Clark's mining camps. He was to receive some money in addition. The memorialists claimed he received \$5,000 for his vote. The other owners of this mining business besides Clark were a Mr. McDonald and Walter Cooper. It was known as the Bridger Coal Company.

Walter Cooper, in his testimony¹⁴⁰, admitted that Dr. Johnston had been offered the position. However, the offer was made before Clark became interested in the company, and Johnston practiced all up and down the valley where the mines were located, anyway. Cooper said that he had tried to persuade Johnston to vote for Clark when they met in Helena, but Johnston would only agree to do so if Hartman could not be elected--Clark was only his second choice even though Cooper used "all the persuasion he could command," as he said. From Cooper's cross-examination, one gathers that Johnston had denounced Clark in his campaign for election, even going

¹³⁸Senate Report, Brown's Testimony, Part II, pp. 844-6.

¹³⁹Senate Report, Whiteside's Testimony, Part I, p. 108.

¹⁴⁰Senate Report, Cooper's Testimony, Part III, pp. 1700-2.

so far as to state that he had been offered the job if he would vote for Clark, and that he had scornfully rejected the offer.

Nevertheless Johnston commenced voting for Clark on the eleventh ballot and never deviated from then until the end, except on the twelfth ballot when he was absent. As a result it seems there was a public meeting held in Carbon County which denounced Johnston, but Cooper denied that this took place.¹⁴¹ He admitted, however, that Johnston did receive a telegram which was very insulting, and that he advised Johnston just to pay no attention to it.

.....

The Senator from Dawson County was Thomas P. Cullen, a passenger conductor on the Northern Pacific Railroad in Eastern Montana. Cullen had been in the Legislature before, in 1893. At that time he had supported Clark for United States Senator, so it would be normally expected that he would do so again in 1899.

On different days, while making his run, Cullen had conversations on the train with Clark, Daly, and the brother of Fred Whiteside. In the conversation between Cullen and Clark it seems that an agreement was reached. Clark told Cullen that he expected his (Cullen's) support since he had received it six years before. Cullen promised to vote for Clark.¹⁴² The price was to be \$15,000 in cash, or \$10,000 in cash and a job on Clark's railroad, the San Pedro, Los Angeles, and Salt Lake. John B. Wellcome was

¹⁴¹Ibid., Cooper's Testimony, p. 1702.

¹⁴²Ibid., Clark's Testimony, p. 1784; also Cullen's, Senate Report, Part II, p. 1237.

to give the money, ear-marked for Cullen, to Whiteside to hold until the vote had been cast. In the meantime the Whiteside \$30,000 episode had taken place, so other arrangements had to be made.¹⁴³ Clark told Cullen that the money was not payment for his vote, but was an expression of how much Clark thought of him.¹⁴⁴

When the Whiteside exposure took place, Cullen was really worried. His money had not as yet been given to Whiteside, but nevertheless he thought his name might be brought into it. Connolly says:

"After the committee of investigation had been named, Cullen...[was] in bed in his room at the Helena Hotel, moaning and crying piteously. He sent for several of his friends and begged: 'For God's sake, see that my name is kept out of that report.' And it was."¹⁴⁵

The memorialists accused Cullen of receiving \$15,000. Connolly indicated that Cullen did go to work on Clark's railroad and was still working there in 1907.¹⁴⁶ Apparently Cullen got over his fright in a short time. After casting three votes for Joseph K. Toole, he began voting for Clark on the fourth ballot and continued to do so throughout the session.

Cullen did not make a good impression before the Senate investigating committee. His memory was quite faulty. Naturally he denied having received any of Clark's money, and also claimed that he had never occupied

¹⁴³Senate Report, Whiteside's Testimony, Part I, p. 96.

¹⁴⁴Ibid., p. 145.

¹⁴⁵Connolly, op. cit., p. 38.

¹⁴⁶Ibid.

any position on any railroad belonging to Clark.¹⁴⁷ This last statement was no doubt true; he had worked for the Northern Pacific until November, 1899, at \$125 a month. His testimony was given on February 6, 1900. It was after this, no doubt, that he began working for Clark.

In relating his conversation with Marcus Daly, Cullen claimed he told Daly that he was going to vote for Clark and that he believed that Clark would be elected. He then said that Daly told him that "...every man that voted for Clark would be published as a boodler and bribe-taker;" and that Daly further said, "If you fellows elect Mr. Clark, I will see that he never takes his seat in the United States Senate."¹⁴⁸ When Daly was placed upon the stand, he said that he remembered seeing Cullen on the train, but denied making any such statements as those.¹⁴⁹ Daly related other conversations, however, in which he made statements in a similar vein. In speaking to Frank Corbett before the election, he said:

"I don't think Mr. Clark will be a candidate...He was hopelessly defeated at the polls. He hasn't got a single vote from his own county, and it would mean wholesale bribery, and I don't think Clark would want to go into that."¹⁵⁰

Further on, when asked why he was contributing money toward the prosecuting of this investigation, Daly answered that since he and his friends had been accused of fomenting a conspiracy, and that the \$30,000 of the Whiteside exposure was said to be his, and especially since Mr. Clark

¹⁴⁷Senate Report, Cullen's Testimony, Part II, p. 1238.

¹⁴⁸Ibid., Cullen's Testimony, p. 1237.

¹⁴⁹Senate Report, Daly's Testimony, Part III, pp. 2207-8.

¹⁵⁰Ibid., p. 2206.

said that he courted an investigation, he (Daly) and his friends agreed right there that there would be an investigation, and that he would contribute his portion of the money.¹⁵¹

Daly's remarks sound quite different from Cullen's accusations. According to Cullen, Daly had said he was going to keep Clark out of the Senate, even before he was elected. Daly admitted readily his part in the investigation, but that he never intended doing anything until after the election. If the Whiteside exposure had been sufficient to keep Clark from being elected, Daly would still have done nothing.

Apparently, too, Cullen had told Fred Whiteside's brother that Fred was a fool if he didn't get \$15,000 from Clark for his vote, but on the stand Cullen denied that he made such a statement.¹⁵²

If Mr. Cullen was any richer after the election of Clark than he was before, he certainly failed to show it; nor was there any way for the prosecution to prove any change in his financial status. He was still a "poor" man, and had no "explaining" to do about recent financial deals that would indicate sudden affluence. He claimed he had no bank account, nor did any member of his family. He still owed a \$1,500 mortgage on his Glendive home, and he owed \$1,000 to a Glendive merchant named Hagan which he had borrowed to send his family to California for the winter. This was necessary, he said, because his boy, eleven years old, was afflicted with lung trouble and had difficulty withstanding a cold winter.

¹⁵¹Ibid., p. 2209.

¹⁵²Senate Report, Cullen's Testimony, Part II, p. 1242.

He had recently put \$245 into a mining claim but that was the only property which he had acquired.¹⁵³ These facts made him a good defense witness, but no one believed him innocent.

.....

Powell Black was a representative from Meagher County. He was charged by the memorialists of having received \$5,000 for his vote. John S. M. Neill told Whiteside that Black had been "fixed" by A. J. Steele, and was to get \$5,000.¹⁵⁴ William F. Rector, the so-called "errand-boy" of the Clark henchmen, claimed that Black used their rooms in the Power Block as his regular headquarters.¹⁵⁵ It will be remembered that three rooms were chosen by Steele because they contained a vault and had three exits. Also, according to Rector, shortly after the fall election Black was sent up to Columbia Falls to see H. H. Garr about voting for Clark for Senator and E. C. Day for Speaker; and after that was sent to see J. M. Conrow of Livingston, a representative from Park County. Black also saw Whiteside while he was in Flathead County. Rector said that when Black got back to Helena he spoke of going to Conrow's office and within "an hour after he got there, he had landed his fish."¹⁵⁶

When Black was placed upon the stand he denied that he had received any money for his vote, or that he had even gone to Livingston to

¹⁵³Ibid., Cullen's Testimony, pp. 1239-43.

¹⁵⁴Senate Report, Whiteside's Testimony, Part I, p. 102.

¹⁵⁵Senate Report, Rector's Testimony, Part II, p. 579.

¹⁵⁶Ibid., p. 582.

see Conrow. He did admit going to Columbia Falls to see Garr, and that he had also seen Whiteside. But the trip was only in the interest of securing the Speakership for Day, he said. He had not even talked about Clark's candidacy for the Senate, and insisted that he had only received \$10 and transportation for the trip. It was Steele who gave him the \$10, but Day gave him his transportation.¹⁵⁷

The Senate investigating committee considered Rector unreliable as a witness; nevertheless his story has the ring of truth in it. Rector had served in the Confederate Army and said that Garr, who had served in the Union Army, was friendly with him. Conrow voted for Clark on the first ballot and continued to do so; Black began on the third, but Garr not until the fourteenth.

Black was like Cullen in that he had acquired no property, he said--only household effects and his library of about 500 volumes, probably mostly law books. But residents of White Sulphur Springs, Black's home town, insist that he received some of Clark's money.¹⁵⁸

.....

Jerry Connolly was the State Senator from Granite County. He was a Populist and had been elected by his party's fusing with the Democrats. He had been defeated for Sheriff at Anaconda in 1897, and since that time

¹⁵⁷Ibid., Black's Testimony, p. 911. Rector intimated that he got much more than that.

¹⁵⁸One resident in particular, George Gordon (negro) told the author that Black might have received as much as \$40,000; that after the investigation was over, Black bought several pieces of real estate in White Sulphur Springs.

he was vociferous in his denunciation of what he termed the "Daly gang." It was shortly after this defeat that he moved over into Granite County.

According to Whiteside, Connolly was one of the first of the legislators to agree to vote for Clark. Wellcome described him in the presence of Whiteside and Neill as "the cheapest of the lot." They had gotten him for only \$500 down.¹⁵⁹ The memorialists said that he received \$5,000 altogether. Both Neill and Wellcome denied that this conversation ever took place.¹⁶⁰

On the witness stand, Connolly did not have finesse. He was aggressive, blustering, and bombastic. Little can be gleaned from his testimony. It was mainly about the "dirty lot of blackmailers of the Daly gang," and the corruption in the elections in Silver Bow and Deer Lodge Counties.¹⁶¹ His ramblings were generally so far off the subject that several times various Senators intervened. From reading his testimony one can imagine that he is just about the type of man described by Fred Whiteside and Wellcome. He had been bought and paid for several days before the balloting for Senator had ever started. On the first ballot he did not vote, but began voting for Clark on the second and did so until the end. So much for Jerry Connolly--the "cheapest of the lot."

.....

¹⁵⁹Senate Report, Whiteside's Testimony, Part I, p. 95.

¹⁶⁰Senate Report, Neill's Testimony, Part II, p. 1569; and Wellcome's, Part III, p. 1961.

¹⁶¹Senate Report, Connolly's Testimony, Part II, pp. 1162-1174.

It is a relief to note that there were in this Legislature several men whom money could not influence. They withstood the temptation regardless of enormous pressure brought to bear upon them. One of the most outstanding of these was Edward H. Cooney, a Democrat and newspaper man of Great Falls. The six Democrats who were candidates for the State Legislature from Cascade County had cards and larger placards printed which read as follows¹⁶²:

"For State Senator: George H. Stanton

For Representatives:

Pat Kelly

J. H. Gillette

Robert Flinn

E. H. Cooney

Wm. Bonner

A vote for the above candidates will be six votes for W. G. Conrad for United States Senator."

The above pledge that Edward H. Cooney had made to his constituents he determined to fulfill. Nevertheless he was approached by a real estate man of Bozeman, Thomas E. Butler.

Butler had talked to both Ross Clark, banker and brother of the Senator, and Charlie Clark about taking over the business management of the Butte Miner, Clark's paper. The Clark's were to put up \$30,000 or \$40,000 to put the paper really upon its feet.¹⁶³ Butler was authorized to offer Cooney the job of circulation manager in the new setup, at \$2,500 a year for five years. This job was not to make any difference concerning an

¹⁶²Ibid., Cooney's Testimony, p. 696.

¹⁶³Ibid., Cooney's Testimony, p. 702; also Butler's, p. 706.

immediate money consideration, either. Butler told him that he would be treated in that respect just the same as the rest of them.

Representative John Walsh of Bozeman was one of the first to sound out Cooney. They met shortly after the exposure and the following conversation took place:

"Walsh: I understand that you are going to vote for Mr. Clark?

"Cooney: Not today. I understand you are.

"Walsh: Yes; I am going to, all right enough. I heard you were going to. There ought to be something in it for us.

"Cooney: I ain't going to vote for Clark now, and I don't think you are, either."

Cooney said that he cut Walsh off very short and that this ended the conversation.¹⁶⁴ But Walsh did not give up. He left word with his brother Joe in Bozeman to have Butler see Cooney again. When Butler again talked to Cooney he reported that Representative Walsh said everything was all fixed up, that Clark would be elected in the next four or five days anyway, and that Cooney had better get on the band wagon and get what was coming to him.¹⁶⁵ Cooney did say he would take a day or two to think it over, but later told Butler he could not vote for Clark. He had been elected to vote for Conrad and that was what he was going to do. When Butler reported this to Charlie Clark, the latter merely answered that it agreed with information he had gotten about Cooney from other sources.¹⁶⁶

¹⁶⁴Ibid., Cooney's Testimony, p. 698.

¹⁶⁵Ibid., Butler's Testimony, p. 706.

¹⁶⁶Ibid., p. 703.

But even this did not end the attempt to "get" Cooney. Connolly has graphically described what happened the night before, and early morning of, the day Clark was elected.

"Early in the morning...Cooney rapped on the door of John R. Toole's room in the Helena Hotel. Toole was not up yet, but called to him to come in. Cooney was evidently laboring under great excitement, and beads of perspiration stood on his forehead. In his eye was the look of a hunted man.

"My God, this is awful," he said to Toole.

"What's the matter?" asked Toole.

"They've been on my track all night," replied Cooney. "They've shoved \$20,000 in bills under my nose; they've told me Conrad would have no use for me after this thing was over--that I might as well take the money. They have said a dozen times: 'Here is \$20,000--put it in your pocket; don't be a fool!' They've tried to reach my family--have seen my wife--I wish they would leave my family alone. They have hounded my brother wherever he goes to get him to use his influence with me. They won't let me rest. I have got to talk with someone."

"If you have come to me for advice," said Toole, "I'm not going to give it to you. I'm not going to have your wife say I stood between you and fortune. If you took that money and were charged with the crime, and I sat on the jury, I would not vote to send you to the penitentiary. I realize the conditions that men are under here...You can't blame men for taking fortunes...when this town [Helena] is making a virtue of bribery... If you want my opinion about this thing, I'll tell you that if you take that money, in time to come it will be a canker at the heart of things. Twenty thousand dollars looks big at first, but it doesn't last long--not as long as the stain of the crime. All these men who are taking money to vote for Clark will pay a penalty for it; they may not serve time, but that is only one form of punishment--there are others."¹⁶⁷

Cooney did not deviate. Conrad received his final vote, just as he had his first one. After Cooney had looked on at the terrible scene in which individual legislators were publicly pointed at, and their price

¹⁶⁷Connolly, op. cit., p. 39.

shouted at them, he said to Toole, "I am the happiest man you ever saw."¹⁶⁸

Not all of the Cascade County delegation were as steadfast as Cooney. Two of the six finally succumbed. Robert Flinn and J. H. Gillette were charged by the memorialists with having received \$10,000 each. They each began voting for Clark on the thirteenth ballot. Flinn died before the Senatorial investigation began; Gillette did not testify but Thomas C. Kurtz, the cashier of the Montana National Bank of Helena, told of a transaction between Gillette and A. J. Steele.

Gillette owed a chattel mortgage of \$1,500 on some personal property at Great Falls. Steele came to the bank and told Kurtz that he would like to draw a mortgage to him as trustee, and Kurtz could assign it over. Kurtz assented, so Steele came back with a mortgage and note which Kurtz signed without recourse. Kurtz then sent the money to the Great Falls National Bank to pay off the prior claims.¹⁶⁹

.....

A little study of the final eighteenth ballot reveals some rather interesting facts. It was the thinly or sparsely settled counties which actually elected Clark. Clark had the solid vote of only one heavily populated county, Lewis and Clark, in which Helena, the capital, is located. That meant eight votes. He never did get a single vote from any member of the Silver Bow delegation of thirteen members. And Silver Bow was Clark's home county. As has already been indicated, Clark had bolted the regular

¹⁶⁸Ibid.

¹⁶⁹Senate Report, Kurtz's Testimony, Part III, p. 2293.

Democratic ticket in his home county, probably because it was controlled by Daly partisans, and instead had supported the "fusion" ticket, composed of Clark-Democrats and Republicans. But the fusion ticket was badly defeated. In return the Silver Bow delegation refused to support Clark under any circumstances.

But even so, the Clark forces did not overlook any possible prospects that might be among the thirteen. At least two were thoroughly sounded out. Representative Thomas F. Normoyle was first approached by a Butte druggist by the name of Scott R. Fair. Fair said that Normoyle could get \$10,000, but the latter pretended to believe that Fair was just joking.¹⁷⁰ Later, after Normoyle had gone to Helena, John Byrne, the state mining inspector, also talked to him. Byrne indicated that the Clark forces were willing to raise the "ante" to \$12,500 or even \$15,000.¹⁷¹ But Normoyle was not for sale.

The other Butte man who was approached was Representative Patrick Murray. William Gallick, a wholesale liquor dealer of Butte, told Murray that he could get \$10,000 for his vote.¹⁷² As would be expected, Fair, Byrne, and Gallick all denied that they had ever made these propositions to the legislators.¹⁷³

¹⁷⁰Senate Report, Normoyle's Testimony, Part II, p. 731.

¹⁷¹Ibid., pp. 732-3.

¹⁷²Ibid., Murray's Testimony, p. 781.

¹⁷³Ibid., Fair's Testimony, p. 1153; Byrne's, p. 1137; and Gallick's, p. 1155.

Clark fared exactly the same way at the hands of the Deer Lodge County delegation, headed by John R. Toole, who was an employee of Marcus Daly. These seven men were from Anaconda, the location of the smelter. So Deer Lodge and Silver Bow counties accounted for twenty Democratic votes that Clark could never get. It has been noticed that Clark could get only two votes from the Cascade delegation of six (Flinn and Gillette). And from the Missoula delegation of five, Clark received but one vote (McLaughlin). No other county had a delegation larger than four members, and some of them had but two, but these swung the balance. For example: Gallatin's delegation of four was solid for Clark; so were the four delegates from Flathead, the three from Choteau, the four from Jefferson, the three from Broadwater, the two from Teton, the two from Yellowstone, the two from Sweet Grass, the two from Valley, and the two from Carbon. These solid county delegations together with the eight votes of Lewis and Clark County gave Clark a total of thirty-five votes. Only twelve more votes were needed to elect him. By counties then this tabulation is possible:

		No. of votes involved
Counties solidly voting for Clark	11	36 ¹⁷⁴
Counties solidly voting against Clark	2	20
Counties split upon the vote	11	38

Of the thirty-eight votes of the split counties, Clark received nineteen or just half.

¹⁷⁴This includes Representative Sands, a Clark man, who received \$15,000 for his vote but was absent for the 17th and 18th ballots.

The political complexion of this Legislature of ninety-four members is interesting, too. There were sixteen Republicans, four Silver Republicans, one Populist, and the remaining seventy-three were Democrats. This was the situation after Whiteside had been unseated and Geiger seated in his place; otherwise it would have been one less Republican and one more Democrat.

Of the seventy-three Democrats, thirty-five never did vote for Clark. Part of them could be considered as strong Daly partisans, and the rest were probably more just against Clark than they were for Daly. Most of these thirty-five voted consistently for W. G. Conrad, but a few (seven on the last ballot) were for Martin Maginnis. This left thirty-eight Democrats who voted for Clark on the final ballot. Conrad testified that ten of these thirty-eight had promised to vote for him.¹⁷⁵ This can only mean that the largest number of votes that Clark could ever have expected without the use of money was twenty-eight, and it is possible that he would not have received that many. Some of the twenty-eight had been elected on the statement that, while they were not for anyone in particular, they were against W. A. Clark.¹⁷⁶

It must be remembered that forty-seven votes were required to elect, which was nine short of Clark's thirty-eight Democrats. This means that Clark would not have had any possibility of election whatsoever without the use of money, and even with the use of money he could not be elected

¹⁷⁵Senate Report, Conrad's Testimony, Part III, p. 2201. The ten were Mahan, Tierney, Warner, Eversole, Flinn, Garr, Gillette, Luddy, Moran, and Truscott.

¹⁷⁶Examples of these are Johnston and Warner.

with only Democratic votes. He proceeded to obtain the votes of the four Silver Republicans¹⁷⁷ and the one Populist.¹⁷⁸ These, generally speaking, were not difficult--were actually easier than many of the Democrats. These five brought Clark's total to forty-three, still four short of the coveted forty-seven. There was only one thing left to do: Clark had to have at least four votes from regular Republicans. He reasoned with truth that they could be bought just as Democrats could. The only difference was that they cost more money. Twelve of the sixteen were bought and paid for. Eleven votes were obtained and one absented himself. A table of members of the political parties voting for Clark on the last ballot would look as follows:

Democrats	38
Republicans	11
Silver Republicans	4
Populists	<u>1</u>
Total	54

Those eleven Republican votes cost Senator Clark over \$200,000. The leader of them was S. S. Hobson and the other ten were Beasley, Bywater, Geiger, Ingersoll, Jacqueth, Long, Magee, Marcyes, Mitchell, and Phillips.

As chairman of the Republican caucus Hobson was more responsible for the action of the Republicans than anyone else and, next to Hobson, Phillips was the most active in working for Clark.

¹⁷⁷These were Johnston of Carbon, More of Meagher, Parker of Granite, and Swindlehurst of Park.

¹⁷⁸Jerry Connolly of Granite, "the cheapest of the lot."

Hobson, the Senator from Fergus County, was president of the Fergus County Bank at Lewistown. He had owed his own bank about \$23,000 for a long time. He was able to pay it just two months after the Legislature adjourned. The cashier of this bank, Mr. Frank E. Wright, in his testimony, was on the whole very favorable to Hobson. He claimed that Hobson was quite wealthy--was worth anywhere from two to four hundred thousand dollars--that he always borrowed liberally, and carried on many large business transactions. This loan, he said, was nothing unusual or extraordinary.¹⁷⁹ The capital stock of the bank was \$200,000 and of this, Hobson owned \$15,000. Former United States Senator T. C. Power of Helena owned \$46,000 worth of the stock. This stock was purchased by Clark shortly after his election. Clark himself told of this transaction on the witness stand. He said that Ben Phillips first told him that the 460 shares could be purchased at par. Hobson was anxious for someone to buy Power's stock, because Power was very indignant with Hobson for supporting Clark and might cause some trouble. Hobson told Clark that he would like to buy the stock himself, that it was good and paid ten per cent dividends, but that he did not have the money.

Clark said he was looking for good investments, so, after seeing a statement of the bank indicating that it was sound financially, he instructed Mr. Johnson, the cashier of his own Butte bank, to purchase the stock. It was paid for through the Montana National Bank at Helena, and the stock was sent to Clark's Butte bank and was still there. The stock

¹⁷⁹Senate Report, Wright's Testimony, Part II, p. 972.

had never been transferred because of negligence, he said. He sent a proxy to the stockholders' meeting early in January, 1900, but it was returned to him with a statement that it was of no value because the books showed no transfer of the account. Clark had already gotten some dividends from it, however; at least that was what he claimed.¹⁸⁰

Frank Wright, cashier of Hobson's bank, confirmed Clark's statements as to the transfer of the stock on the books. No transfer had been made, no one represented it at the January meeting, and it was not voted at that time, he said.¹⁸¹ On the strength of these facts, Connolly observed that the stock's identity had been lost.¹⁸² Just what this actually might mean so far as Hobson was concerned could be questioned, but it was believed at the time that he received the full benefit of this transaction.

Cashier Wright was ordered to bring a full statement of Hobson's account for the committee to examine. On April 29, 1899, an item indicated that Hobson had received a credit of \$25,000 from the Continental National Bank of Chicago. This bank was the Chicago correspondent of Clark's Butte bank. Neither Clark nor Wright professed to know anything about this transaction, however. A telegram was sent to John B. Wellcome from this bank on January 21, 1899. It read as follows:

"The C_____ National Bank would gladly do anything for Mr. W. A. Clark, but there is no power in a national bank to give a bond. Such a thing would be absolutely worthless.

¹⁸⁰Senate Report, Clark's Testimony, Part III, pp. 1891-2.

¹⁸¹Senate Report, Wright's Testimony, Part II, p. 973.

¹⁸²Connolly, op. cit., p. 37.

Mr. L_____ is sick at home today, but we believe he will accept Mr. Clark's private and separate bond to secure any signatures you may furnish. Will try to reach him this afternoon."¹⁸³

Senator Clark claimed this telegram did not refer to Hobson's credit. He explained it as follows:

"I was informed...that it was in connection with a transaction of Mr. Wellcome's in Mexico; purchase of land, in which a bond had been given, and our bank was asked to furnish an indemnifying bond. Mr. Wellcome, I believe, wanted a bond. They had to furnish a bond in Chicago, and the Continental National Bank were willing to furnish the bond if W. A. Clark and Brother would give them an indemnifying bond. That is the way I understood that transaction. I have no knowledge of it myself, personally."¹⁸⁴

Mr. Hobson went to Europe shortly after the legislative session was over. He was in California at the time of the stockholders' meeting in January, 1900. He never did testify at the investigation, but Senator Clark claimed that Hobson was in Washington twenty-two days during the investigation but was never called upon to testify. Clark blamed the committee for this. Wright, the cashier, under adroit questioning by the defense counsel admitted that Hobson sold some mines to a London syndicate, but did not know whether that sale had anything to do with the \$25,000 credit in the Chicago bank or not.¹⁸⁵ Nevertheless such questioning might have been for the purpose of influencing the committee of Senators. This \$25,000 was evidently used to pay the debt at his own

¹⁸³Senate Report, Part II, p. 986.

¹⁸⁴Senate Report, Clark's Testimony, Part III, p. 1893.

¹⁸⁵Senate Report, Wright's Testimony, Part II, p. 980.

bank; the credit was received April 29 and the debt was paid on or about May 1. The memorialists charged that Hobson received \$50,000; but if he received both the bank stock and the credit from Chicago, he received \$71,000 or its equivalent. This was probably what he received.

Many of those who knew Hobson were surprised at his lack of integrity. He posed as a pious, God-fearing man. After he was exposed, he was dubbed: "the psalm-singing hypocrite."¹⁸⁶

Of the four Republicans who refused to be bribed into voting for Clark (Worden of Missoula County, Hedges of Fergus, Lindsay of Dawson, and McKay of Custer), only one, McKay, testified before the committee. He said that he was approached by Senator Phillips with the proposition that if he would vote for Clark he could get \$15,000. Representative Ingersoll from McKay's own county, Custer, was going to vote for Clark and receive \$10,000, Phillips indicated.¹⁸⁷

When Phillips testified, he admitted that he had spoken to McKay about voting for Clark in the Republican caucus, but denied that he had ever spoken to him privately or mentioned that he could get money for his vote. He also denied that he had said anything to McKay about Ingersoll, or that he knew anything about money being used to obtain votes for Clark.¹⁸⁸ Ingersoll also denied that he and Phillips had had any conversation about the use of money for his vote or anyone else's.¹⁸⁹

¹⁸⁶Statement to the author by a man who knew Hobson, as well as Clark, Daly, and many others mentioned in this chronicle.

¹⁸⁷Senate Report, McKay's Testimony, Part II, p. 817.

¹⁸⁸Ibid., Phillip's Testimony, pp. 1232-3.

¹⁸⁹Ibid., Ingersoll's Testimony, p. 1219.

It was Senator McKay that gave in his testimony an inkling of what happened in the last two Republican caucuses. The one held on the Friday evening before Clark was elected was a secret caucus, attended only by those who supported Clark. McKay said that a good many of the Republican members were in the Helena Hotel, but in a little while they had all left, so he surmised that a caucus was going on. Phillips said he did not know who it was who called the caucus Friday night. "It was just talked around there ~~that~~ ^{that} they were going to have a meeting," he said, but he admitted that none of the four anti-Clark men were there. The business conducted that evening was a discussion of measures before the Legislature and the Senatorial question. Clark's letter to Hobson stating his position on the tariff on Montana raw materials was read, as well as a number of petitions from constituents asking them to vote for Clark. Ingersoll and Marcyes¹⁹⁰ in particular had such petitions. They were desirous of breaking the Senatorial deadlock, so they decided to vote for Clark since he was for protection, Phillips claimed.¹⁹¹

At the caucus the next morning both the Clark and anti-Clark Republicans were present. William Lindsay, who a few days before had denounced Clark and bribery in general in the Legislature, again took the floor. He said:

"Let us make short work of this, gentlemen. There is no use beating about the bush here. We know what this caucus

¹⁹⁰Before Marcyes cast his final vote for Clark, he read his petition to the joint assembly of the Legislature.

¹⁹¹Senate Report, Phillip's Testimony, Part II, p. 1231.

is going to do. All you gentlemen who are going to vote for Mr. Clark today had better stand up...."

so the eleven rose and left the room.¹⁹²

Of the six Republicans who testified only Beasley, Bywater, and Geiger had a difficult time explaining their sudden wealth. Not much was gained from Phillips, Ingersoll, or Jaqueth. Their reasons for voting for Clark were invariably the same: (1) to break the Senatorial deadlock; (2) because Clark was in favor of adequate protection upon Montana raw materials; and (3) because a majority in the caucus had agreed to support Clark and they wished to stand by the action of the caucus. Democrats as well as Republicans often made speeches telling why they had changed over and were voting for Clark. In his final speech in the Legislature, Fred Whiteside made short shrift of these subterfuges when he said that he was not surprised that the gentlemen, who had changed their votes to Clark recently, had made speeches of explanation, but suggesting that it would be more clear and to the point if they would just get up and tell the price and sit down.¹⁹³

The testimony of A. L. Jaqueth is rather unique. He was from Kalispell, as was Whiteside. He did the best he could to injure Whiteside's reputation and character. He was a civil engineer, and as such inspected some paving done on the streets of Kalispell by Whiteside. He claimed Whiteside tried to cheat the city, because he did not want to follow the plans and specifications. At a later time he said that Whiteside had a

¹⁹²Cornolly, op. cit., p. 37; Senate Report, McKay's Testimony, Part II, pp. 818-21.

¹⁹³Quoted by Cornolly, op. cit., p. 41.

contract to do some work on a school building, but that the contract was taken away from him because he attempted to cheat and defraud the school district.¹⁹⁴ In rebuttal Whiteside had no opportunity to go into this controversy because of objections by the defense. He was able to say, however, that he and Jaqueth had differed on the amount of the balance due him from the city, and on one occasion that he had called Jaqueth a liar, but otherwise their relations were tolerably friendly.¹⁹⁵

In his earlier testimony, Whiteside had already told about Jaqueth's first accepting Clark money. That was no doubt the reason why Jaqueth was bitter in his denunciation of Whiteside. At the beginning of the session Wellcome had asked Whiteside to sound out both Bywater and Jaqueth, because they were from his county. Even though they were Republicans, and at that time Wellcome expected to be able to get enough Democrats to elect Clark, Whiteside was authorized to offer them \$5,000 a piece which they could have if they would vote for Clark when called upon. If they were not called upon, they were to get the money anyway. Bywater said if there was any money to be had, he would like to get hold of it, but that he would not vote for Clark unless a majority of the Republicans did; he would not be the only Republican voting for him.¹⁹⁶

When Whiteside saw Jaqueth, he attempted to make an appointment for him to see Wellcome, but Jaqueth objected and said he would rather do

¹⁹⁴ Senate Report, Jaqueth's Testimony, Part II, p. 1202.

¹⁹⁵ Senate Report, Whiteside's Testimony, Part III, p. 2300.

¹⁹⁶ Senate Report, Whiteside's Testimony, Part I, pp. 103-4.

business with Neill, with whom he was well acquainted because he had already had dealings with him in the surveyor-general's office. So that same afternoon Whiteside and Jaqueth met Neill in one of the small rooms of the Montana Club. Neill took out \$5,000 and counted \$500 and gave it to Jaqueth which he put in his pocket. The other \$4,500 was put in an envelope and given to Whiteside to hold for Jaqueth and to be given to him later, when and if he fulfilled the conditions. Whiteside had Jaqueth mark the envelope so it could be identified. Jaqueth put a cross on it but Whiteside told him that was not enough, so Jaqueth put his initials, "A.J.," on it, one letter upon each side of the cross.

The next day Jaqueth saw both Neill and Whiteside, individually, and refused to stand by the agreement because the amount was too small. Neill saw Whiteside that same evening and got the \$4,500. Whiteside gave Neill the money but kept the envelope for evidence.¹⁹⁷

William F. Rector in his testimony said he saw A. J. Steele in the room of the Power Block give Jaqueth \$10,000 which he put in his pocket. Rector said Jaqueth was hard to catch; he kept raising the amount, and he objected to anyone else's holding the money.¹⁹⁸

When the defense lawyer, Roger Foster, asked Jaqueth about the meeting with Whiteside and Neill, he used the name Steele instead of Neill. It cannot be said whether it was done intentionally or accidentally.¹⁹⁹

¹⁹⁷Senate Report, Whiteside's Testimony, Part I, pp. 104-5.

¹⁹⁸Senate Report, Rector's Testimony, Part II, pp. 580-1.

¹⁹⁹Ibid., Jaqueth's Testimony, p. 1204.

By using this wrong name, Jaqueth could truthfully deny the whole allegation.²⁰⁰ The envelope in which Whiteside put the money was shown to him, but he denied that he had ever seen the envelope or that he had put the cross or his initials upon it. Both Foster and the committee requested Jaqueth to write his initials several times and several ways.²⁰¹ No comments were made upon the result, however.

Jaqueth's financial affairs were gone over very carefully by Campbell, but nothing suspicious could be found. He had owed \$6,000 to the First National Bank of Kalispell but he had paid it, he said, in July, 1899, from the proceeds of two government contracts. One was for \$4,800.66 and the other was for \$5,000; and on the first one there was still about \$600 due. Jaqueth produced papers to prove these statements. He also produced his bank book to prove his statements about his loans and payments.²⁰² Jaqueth acquitted himself well under the fire of the committee. What actually became of the \$10,000 which the memorialists accused him of receiving was never brought to light.

Of all the men who testified before the committee, probably the one who made the worst impression was Representative Washington W. Beasley, Republican of Sweet Grass County. He said "I don't know" or its equivalent as the answer to probably half of the questions that were asked of him. The Senators on the committee were plainly irritated at his lack of cooperation as a witness.

²⁰⁰Ibid., Jaqueth's Testimony, p. 1204.

²⁰¹Ibid., pp. 1213-5.

²⁰²Ibid., pp. 1208-9 and 1215-8.

He admitted that he owed a board bill at the Big Timber Hotel that was somewhere near \$400 before the Legislature convened. Yet he claimed that when he went to Helena he had between \$5,000 and \$6,000 in his pocket-book which he carried in his inside vest pocket. He and his sons, George and Nat, all had this money at different times; they gave it back and forth to each other! But Beasley had no idea how large or thick a package such an amount of money would be. Beasley said he carried his money with him because he was afraid creditors would attach it if he put it in a bank. Yet he did have between \$2,000 and \$3,000 in Cruse's Savings Bank in Helena during the latter part of the session. Shortly after he went to Helena he took out a life insurance policy. He gave his note for the first premium even though he was supposed to have over \$5,000 in his pocket at the time.

When Beasley got back to Big Timber, he was given a rather warm reception. He was hanged in effigy, and there were placards on the dummy denouncing him as a traitor and a bribe-taker. Beasley sued the persons responsible for \$20,000 but lost the case.

Beasley said his business for the past ten years had been speculating in sheep, selling sheep on commission, and buying wool on commission. It sometimes ran as high as \$200,000 to \$300,000 a year, he said. The memorialists accused him of receiving \$10,000, but he might have received more. Early in the session he told Senator Worden of Missoula that Clark was willing to give \$150,000 for ten Republican votes, and he thought it was too good a thing to let pass.²⁰³

²⁰³Connolly, op. cit., p. 36.

When asked why he supported Clark his answer was that it was entirely because Clark would support a tariff on wool. Beasley claimed he had a typewritten letter to that effect, but he said the signature was typewritten, not signed. He could not produce the letter, however. Neither could he remember where he got it, who gave it to him, just when he received it, or whether it was read in the caucus.²⁰⁴ The prosecution attorneys and committee members got very little from him. He answered a little better to the questions of defense attorney, Faulkner, but this cross-examination was very short. Wellcome told Whiteside they were sure of getting Beasley, because he was afraid he would not get a chance to earn his money.²⁰⁵

It will be remembered that Representative Stephen Bywater of Kalispell had said that he would like to obtain some money if it could be done, but that he would not be the only Republican to vote for Clark. According to the memorialists he received \$15,000, and ten other Republicans helped him elect Clark. On the third of March, 1899, Bywater deposited \$15,000 in the Montana National Bank of Helena. His regular occupation was conductor on a railroad, but he had interests in stockraising, ranching, and mining, he said. In April or May, 1899, he purchased 240 acres of land in Washington for about \$5,000. He had owned for about two years a section of Northern Pacific timberland in Idaho.

²⁰⁴ Senate Report, Beasley's Testimony, Part II, pp. 983-1015.

²⁰⁵ Senate Report, Whiteside's Testimony, Part I, p. 102.

His explanation of where he obtained the \$15,000 is interesting; \$6,000 he brought with him from Kalispell, where his wife kept it in her trunk in their room at the boarding house in Helena. He did not care to put it in a bank, he said, so long as his wife stayed at the dwelling place. Toward the end of the session he developed rheumatism, so he and his wife decided to go to Hunter's Hot Springs for some treatments. He then decided to put the money in the bank, because he did not want to take any more money than he needed when going among strangers, he said. "You know, yourself," he went on, speaking in particular to Senator Turley, "that when you go to the Springs and undress three or four times a day, you do not want to have much money with you."²⁰⁶ He had originally obtained the \$6,000, he said, from savings, sales of cattle, town lots, and mining claims. But his salary on the railroad was \$125 a month²⁰⁷ for eleven years, he said.

The other \$9,000 did not belong to him, but was the property of the Broken Hill Mining and Development Company of British Columbia, and had been given to him by his brother Ben on the morning of March 3, the same day it was deposited, he said. Ben lived all over the coast; he thought Ben was at Sumter, Oregon, while the testimony was being taken. The brothers were to meet in Spokane, but he could not do that because of his rheumatism, so Ben just slipped into Helena that morning, gave him the money, and left again that same evening. He did not remember where his

²⁰⁶Senate Report, Bywater's Testimony, Part III, pp. 2327-8.

²⁰⁷Ibid., p. 2323.

brother had stayed while in Helena those few hours--it was such a hurried trip!

Bywater claimed to be president of the above-named company, which consisted of four mining claims with considerable work done. Bywater and his partner were the original locaters of these claims. Ben and some other people were to purchase 80,000 shares of stock in the company with the money, and the money was spent in wages to about ten men who worked all summer improving the property, he pointed out.²⁰⁸

The Senators mercilessly questioned Bywater about this company, its stock, its officers, its organization, its financial accounts, its stockholders, location, and everything else they could think of. He was far more talkative than the majority of those who had taken Clark's money; but he was vague, there were a few times that he did not know, and the financial methods of the company were extremely careless. He could not have made a good impression, but no one can say that he did not try. Defense attorney Faulkner asked but one question: whether he had ever accepted any money for his vote for Senator Clark. Of course he had not.²⁰⁹ Whiteside, he claimed, was the only man who approached him with a money offer. A man was waiting to give him \$5,000, but he could not remember who the man was; at any rate, he said he told Whiteside to tell that man to go to hell! He would always vote with the majority of the Republicans and stand by their agreement in the caucus.²¹⁰

²⁰⁸ Ibid., Bywater's Testimony, pp. 2330-1.

²⁰⁹ Ibid., Bywater's Testimony, p. 2335.

²¹⁰ Ibid., pp. 2336-7.

J. H. Geiger, the Republican who unseated Whiteside, voted only on the last three ballots, twice for Leonard²¹¹ and once for Clark. He early made overtures to get aid from the Clark organization; after he filed a contest for Whiteside's seat he told Wellcome that, if he could get their support and win the contest, he would vote for Clark.²¹² After the exposure he had no trouble getting the support of the Clark organization, and Whiteside was unseated by a combined vote of Republicans and Clark-Democrats. According to the memorialists, he received more than support in the contest--\$15,000 more!

Geiger made a terrible impression before the Senate committee. Before he came to Helena, he borrowed \$300 from the Conrad National Bank of Flathead County; and he had gotten another \$50 for campaign purposes. When he arrived in Helena he bought on credit a watch which cost \$47.50. Yet when he went back to Libby on March 17 (just after the Legislature had adjourned) he admitted he had in the neighborhood of \$3,600.

He accounted for these sudden riches in various ways. He had received \$200 from his mother's estate located at Marion, Ohio. In Helena during the legislative session he had won about \$1,700 at faro, and in Libby he won about \$130 at poker.²¹³ In Peoria, Illinois, he had won \$1,000 on a horse race. Then he received \$100 for his interest in some

²¹¹ See short sketch of Charles R. Leonard in Appendix II.

²¹² Senate Report, Whiteside's Testimony, Part I, p. 100.

²¹³ When John D. Wellcome testified that he had first met Representative Beasley in one of the rooms of the Helena Hotel where there was a poker game going on, Senator Turley promptly asked, "Was Mr. Geiger in it?" Wellcome answered no, that he had never played poker with Geiger.

mining stock. Then, to add a miracle to an amazing streak of luck, he told of how one morning he found an envelope with his name on it, lying on the floor of his room. In it was \$1,100. His testimony was so extraordinary that it caused him to be mercilessly quizzed by the committee as well as the prosecuting attorneys. He was tangled up badly as his stories became more confused and involved. Many questions he did not want to answer at all. At one place he said he did not choose to make any further explanations about his private affairs, because an unjust judgment was hanging over him. It was for \$1,400 and was held by people in Bozeman, he said.

Then, after considerable talk, mention was made about bribing legislators for the purpose of voting the "right way" on bills pending in the Legislature. Geiger mentioned that "...there were other ways of making money at Helena during that Legislature." The \$1,100 that he found in his room he believed had been thrown over the transom, but he had no idea who did it or why, but thought maybe it was to influence his votes on some of the pending legislation. He had never told a soul about this before, and did not want to tell it now, he said.

He was told that he could get \$1,000 or \$1,200 if he would vote against a bill that the mining corporations opposed. Then he refused to tell any more about it, on the ground that, if he did, he would incriminate himself. All the persuasion that the Senators could use was of no avail; he just would not tell. Even Mr. Faulkner, the defense attorney, found it extremely difficult to protect him. He (Faulkner) asked only one question: whether Geiger had been offered any money by the Clark faction to influence

his vote for Senator. Of course Geiger had not. Faulkner said he did not believe he could pump any more out of him than the prosecuting attorneys already had.²¹⁴

Geiger's conduct when he cast his vote for Clark was unique to say the least. Connolly has given an interesting account:

"When Geiger's name was called, he rose from his seat and marched to the space in front of the Speaker's desk. His was the first Republican name on the roll...Geiger's hair had been freshly oiled and plastered down, and he had all the appearance of one who realized he was to play a role that would become historic.

"Before casting my vote, I would like to have your attention for a few moments," he said. "I will not attempt to make any speech--if I wanted to I could not do it. But I realize that what is taking place in this probably the most extraordinary assembly that has ever assembled on the American soil, is a grave and serious thing. I have studied this matter over and have come to a conclusion of my own. I stand here under peculiar circumstances. I am proud to say I belong to the minority of this body. The first vote I cast in this assembly, I cast for what I considered one of the leading young war-horses of the Republican party; but now the time has arrived (laughter and shouts)--arriven--(uproar of laughter, after which Geiger desisted from the attempt to gather up his scattered sentence)--I believe when I cast my vote I am only doing what I ought to do, and I say to you now, and I defy the wretch, or whoever he may be, man, woman, or child (continued laughter), that I am about or going to be doing otherwise. I say to you, gentlemen, that I am doing this with hands clean, pockets empty (Geiger dramatically tapped his pockets amid increasing volleys of laughter) and conscience clear, and I am also doing it at the mandate and request of the Republican caucus, in which I did not vote. I now cast my vote for W. A. Clark, of Butte."

"Geiger closed his speech amid applause, hisses, and cries of 'traitor.'"²¹⁵

²¹⁴Senate Report, Geiger's Testimony, Part II, pp. 920-971.

²¹⁵Connolly, op. cit., p. 42.

Geiger especially pointed out to the investigating committee that the Republican caucus vote was ten to four and that he did not vote, and that he felt that he was bound to act the same as the majority in the caucus. It was detrimental to the people's interests there in the State, if there should have been a deadlock. Asked by Senator Hoar if he were a Republican, Geiger went on to say, "Yes, and a McKinley Republican, too-- a straight Republican." Senator Hoar observed that he was not aware of any "crooked" ones himself. Geiger pointed out that Clark's views on tariff and expansion were the same as those of the Republicans. When asked by Senator Hoar if he considered then that Mr. Clark was in substance a Republican, he answered yes, that Clark was a good enough Republican for him!²¹⁶

It would be impossible to give the story of every single legislator who voted for Clark. Many of them did not testify, and information regarding some of the others is scant. It is fairly certain that most of them received some compensation. When the testimony was all in (and it fills three large volumes), it was a tough job that faced the two defense lawyers to prove to the Senatorial committee that Clark was not guilty. Certainly they made a valiant effort. The testifying of the witnesses was completed at 4:10 p.m. on March 2, 1900, but it was not until April 3 that the arguments of the counsel began. Senator Chandler, the chairman, was ill during the closing days of the testimony, but was able to resume his position on the committee in time to hear the arguments.

²¹⁶Senate Report, Geiger's Testimony, Part II, pp. 966-7.

It was agreed that each side should have six hours for their pleas, and two speeches could be made. The talks were a rehash of the testimony--long, dull, tiresome, and not particularly interesting or informative. The members of the committee were all lawyers themselves, so could probably have spoken as well as the counselors. But they were very patient and listened attentively to the twelve-hour barrage of oratory.

Mr. Birney began for the prosecution and talked for four hours. He, as well as the others who followed, was interrupted from time to time by both the committee and the opposing counsel. He was followed by Mr. Foster for the defense. Foster did the best he could to make some of the peculiar testimony sound bona-fide. His attempts to justify the actions and testimony of H. H. Garr are quite interesting. In speaking of Garr's putting his initials upon the envelope without knowing why, he said:

"...you must remember that ^{he} [is] an old gentleman, not used to business affairs, who lived there in the country, and was accustomed to witnessing things as a justice of the peace. It may have been that he thought Whiteside wanted some reason for proving the fact that he (Whiteside) held this money at that time. It might have been money that Whiteside intended to put in as a bid for some contract for constructing a private or public building. He may have thought it was money that Whiteside held as a stake for a debt."²¹⁷

The story of Garr's aunt keeping her money in the trunk Foster handled as follows:

"...his aunt was not called [to the witness stand.] This story of money having been kept in a trunk may seem strange to you, with your business ideas and business habits, but it is

²¹⁷Senate Report, Foster's Argument, Part III, p. 2600.

proved that people in the country of Montana not only kept money in trunks, but they buried it in the ground, and that when they keep bank accounts, they kept small bank balances, but would not trust large amounts to the banks. That is not uncommon with ignorant people, and sometimes ignorant people show their wisdom by doing that."²¹⁸

Mr. Birney had praised Whiteside and had even compared him to Nathan Hale, the patriot spy; Foster's rejoinder on this was that he was surprised that the Dome of the Capitol had not fallen when such a sacrilegious comparison was made. Instead Foster compared Whiteside to Titus Oates²¹⁹, probably the greatest liar in English history. Turning to Whiteside, Foster said:

"You, Whiteside, through the clemency of the law, will avoid the whipping post; but you are already pilloried by the scorn of all decent people in Montana, and the doors of the State prison are yearning for you upon your return, upon the charge of bribery in connection with the election returns."²²⁰

Whiteside had to sit and take this abuse, without any chance to reply.

Foster's entire speech was not too dignified. He resorted to name-calling a great deal. He had other names for Whiteside: bribe offerer, and obtainer of money under false pretenses - the latter he designated also for Myers, and Clark of Madison. For Representatives Stiff, Sullivan, and Normoyle, he used unsuccessful solicitors of bribes. Then he freely used would-be bribe brokers and liars; for the late Rev. Benjamin E. H. Warren,

²¹⁸Ibid.

²¹⁹Oates, by his lying testimony, had managed to send thirty-five men to their deaths upon the scaffold. When the truth was finally discovered, Oates was flogged by a whip of six lashes, and afterward pilloried.

²²⁰Ibid., p. 2597.

as he called him, he used clerical embezzler, brawler, fornicator, and unfrocked priest. Nolan was a self-confessed State criminal, but Congressman Campbell received the most designations of all--he was a hirer of false witnesses, a suborner of perjury, a corrupter of grand juries, and a self-proclaimed wader in the mud.²²¹ Such tactics are resorted to generally when a lawyer's case is weak.

Foster also had attempted a reply to Mr. Birney's comparison of Mr. Woods of Ravalli County to a hare. Mr. Birney had pointed out that the defense claimed that there was no evidence to show that Mr. Woods had been corrupted. This in spite of the fact that the mortgage on the Woods' ranch had been paid. Mr. Birney then said,

"...when we find a pack of hounds in full cry upon the trail of a hare, and they pass out of hearing, and afterwards the chase ceases, and we find the hounds with blood upon their noses, and a satisfied expression upon their faces, and also find fur upon the bushes, we can frame a very shrewd guess at what has become of poor bunny."²²²

Foster claimed he could see no corruption in the Woods affair. If money had been given to Mr. Woods, it would be a different matter, he said.

Then he went on:

"Now, my friend Mr. Birney told that story about the rabbit; but he told it...differently from the way I have heard it. As I have always heard the story it was: If the dog had not stopped, he would have caught the rabbit. Now, in this case it appears that those dogs stopped."²²³

²²¹Ibid., p. 2576.

²²²Ibid., Birney's Argument, p. 2546.

²²³Ibid., Foster's Argument, p. 2614.

That was the testimony, he said, of both Mr. Bickford and Dr. Ector. For this reply Foster was rebuked by the Chairman, Senator Chandler, who said, "In view of that reply, I think the rabbit story ought to be ruled out."²²⁴

The other defense lawyer, ex-Senator Charles J. Faulkner, followed Foster with his plea. He was far more smooth and dignified than his colleague. He spoke very kindly of Senator Clark and his great accomplishments as an industrialist and statesman. Never for a minute did he hold Clark responsible for any wrong-doing, but blamed Marcus Daly for all the trouble. Faulkner pointed out that, of the half-dozen or more candidates for the office to which Clark was elected, not a single one was aiding the prosecution or asking for any redress for injury received at the hands of the Senator. Furthermore, not a single disinterested citizen of Montana was aiding the prosecution. Again it was all from Marcus Daly and his representatives. He talked at great length about the whole \$20,000 incident's being a Daly conspiracy, and he pointed out that Clark had to fight back--it was the law of self-preservation. He acted as though he was sure that the Senate committee was with him, and would make its decision in favor of Senator Clark, without any doubt whatsoever.

The last lawyer to make his plea was ex-Senator George F. Edmunds for the memorialists. He confined himself largely to rebuttal of Faulkner's plea and stressed the lack of accounts and documentary evidence which the defense needed to prove their statements.

²²⁴Ibid., the Chairman's Statement, p. 2614..

The committee finished its findings by April 10, and on April 23 ordered its report printed. As it was stated, the finding said

"that the election to the Senate of William A. Clark of Montana, is null and void on account of briberies, attempted briberies, and corrupt practices by his agents, and of violations of the laws of Montana defining and punishing crimes against the elective franchise."²²⁵

The report was summarized, yet detailed enough to give a clear and accurate picture of exactly what had taken place. It began by noting the cost of elections in Montana, then mentioned the various agents of Clark and the amounts of money that they actually admitted spending which amounted to \$139,000. Also, there was in addition \$5,000 each given to McDermott, Wellcome, and Day. The report then summarized the individual cases of certain members of the Legislature such as McLaughlin, Woods, Warner, Garr, Geiger, Fine, Bywater, Day, Beasley, and the three from Broadwater County: Tierney, Shovlin, and Eversole. It went on to speak of the Whiteside incident and the alleged Daly conspiracy; also the questions of law involved in the case, the conduct of the Republicans who supported Clark, the disbarment of John B. Wellcome, the approach to the Montana Supreme Court, and finally a criticism of the prosecutors, themselves. This latter involved mostly Congressman Campbell's methods of obtaining evidence, and the use of Daly's money in almost unlimited amounts by him and the other memorialists. This criticism was not severe enough for Senators Pettus and Harris, who made a separate minority report, giving in much more

²²⁵ Senate Report, Part I, p. 1.

detail an airing to the questionable practices used by Campbell.²²⁶ These two Senators did, however, agree to the majority report, which made it unanimous.

The committee asked the Senate to adopt the resolution which they recommended:

"Resolved, That William A. Clark was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Montana."²²⁷

Clark knew this was coming and shrewdly prepared as clever a coup as was ever accomplished by a politician.

²²⁶ Senate Report, Part I, p. 21.

²²⁷ Ibid., p. 15.

CHAPTER XI

CLARK OUTWITS THE MEMORIALISTS

On May 15, 1900, Senator Clark arose in the Senate and made a long speech in which he attempted to vindicate himself. He was able to talk from the Senate floor on a question of personal privilege, and as yet, too, the Senate had not acted upon the committee's resolution to declare his seat vacant.

He divided his speech into four main parts as follows: (1) the character of the investigation; (2) the majority report of the committee; (3) the political conditions in Montana that justified his political actions (as he put it); and finally (4) the course he deemed best to pursue as a result.

Clark castigated the investigation for its unfairness; it had not been conducted, he said, in a strictly judicial manner, and in accordance with the established rules of evidence. He admitted that Senators Pettus, Harris, Pritchard, and McComas had tried to exclude irrelevant testimony, but had been overruled; and that the acceptance of such testimony, together with hearsay and malicious and perjured testimony, had been damaging in the extreme to his case. He went on to say that the presumption of innocence until the accused had been proved guilty had not been applied in his case. No proof had been established that he had corruptly influenced the state legislators.

He intimated that money may have been used during the legislative session but strongly hinted that it could have come from Daly's Anaconda

Company, which was much interested in certain legislation, both pro and con, that was before the Legislature.

He criticised the findings of the committee because the evidence, he said, did not support those conclusions. He mentioned specifically his purchase of timber lands from McLaughlin which he justified because he used thousands of feet of timber in his mines, and that Mr. Daly had purchased, or was in some way connected with, virtually all the lumber interests of the State and had put the price up several dollars per thousand. These negotiations were begun in September, he claimed, even before McLaughlin was nominated for the Legislature, not after he was elected.

He dwelt at length upon his long struggle with Daly: He had come to Montana in 1863, Daly not until 1876; and, before Daly came, there was no political bribery in the State. He read a long affidavit of George E. McGrath, a former Daly adherent, which told of Daly's methods to keep Clark from ever being elected to a high political office. The Whiteside incident was just another Daly conspiracy to keep him from becoming Senator. He had nothing good to say of Congressman Campbell. He pointed out that Campbell had once gone to a meeting and had feigned sleep in order to obtain information with which to betray his friends. Campbell's procuring of perjured testimony, hiring of detectives, and opening of other people's letters, came in for a severe condemnation. Turning again to Daly, Clark asked how any credit could be placed upon his (Daly's) statements, when first he had the audacity to say that he had no ill feeling toward him (Clark) and in the next breath he admitted that he had authorized the unlimited use of money to crush him! Daly ruled Anaconda, he said, as a

czar--in fact, he had been called that all over the State--and it was too much to expect the people of the whole State to allow him to rule Montana in the same way. Businesses which had defied the Anaconda Company had been crushed; mortgages upon people's homes had been foreclosed once they got out of favor with Mr. Daly; there were about 600 vacant homes in Anaconda right at that time, he said.

Clark ended his lengthy talk by recounting the number of good things he had done, such as serving as: Montana orator for the Centennial at Philadelphia in 1876; State delegate to the New Orleans Exposition; President of both State Constitutional Conventions; Major of volunteers of the First Battalion in the Nez Perce invasion of 1878; and no one, he went on, had ever known of his doing a dishonorable act, except those who were pursuing him. "I propose to leave to my children a legacy, worth more than gold, that of an unblemished name," he concluded.¹

Finally he read a copy of his letter to the Governor of Montana, dated May 11, in which he resigned from the Senate. He held no one responsible for the result, he said, and he thanked the Senate profusely for its courteous attention and for the sympathy and support that had been shown him. For this speech Clark was warmly congratulated by Senators from both sides of the chamber.

In his letter Clark said that he was conscious of the rectitude of his own conduct, yet he was unwilling to continue to occupy his seat in the Senate under credentials which its committee had said rested for

¹Clark's Speech to the Senate, Congressional Record, XXXIII, pp. 5531-6.

their authority upon the action of a legislature which was not free and voluntary in its choice of a Senator.

Before making his speech, Clark had already wired his son Charles:

"Report of the committee will be adverse. Don't let this worry you. I will be vindicated either here or in Montana."

Clark did not resign only for the reasons which he gave the Senate, and which were written in the letter to "His Excellency, the Governor of Montana." There was still a better one. He faced this situation: If he allowed the committee report to come to a vote by the Senate, and the vote be adverse as he knew it would be, then according to the law his election had been no election, and therefore no vacancy would exist. No Senator from Montana could be chosen then until the next election. But if he resigned before any action was taken by the Senate, then a vacancy would exist, and the Governor of Montana could immediately appoint a successor to fill the vacancy. If Clark then could be appointed to fill the vacancy which he himself had created, he would still be Senator, the investigation would have been useless, and he would have snatched victory from defeat.

But this plan had one difficulty to surmount. The Governor, Robert B. Smith, had no use whatsoever for William A. Clark. Under no circumstances would he make any such appointment. Connolly describes Smith as being an "impecunious politician, stubborn in his convictions."² Smith was thoroughly convinced of Clark's guilt, so there was no use in attempting to get him to change his mind, or to bring any kind of pressure to bear

²Connolly, op. cit., p. 214.

upon him, or certainly to approach him bluntly with a bribe. Furthermore, Smith was a Daly man.

But Clark, the master strategist in this case, found a way out of this dilemma. He not only used a clever ruse on the Governor, but his timing of the whole incident was perfect. The Governor must be temporarily persuaded to leave the State on a fake errand and the appointment must be made immediately by the Lieutenant-Governor, A. E. Spriggs, who would be legally taking over the Governor's duties temporarily until his return. Since Spriggs was a Clark man--not too strong a one, however, but nevertheless a Clark man--the whole thing must be done so cleverly that no one could possibly be suspicious, especially the Governor.

On or about May 13, after the Helena papers had carried a notice of his departure, Spriggs left the capital city ostensibly to attend the Populist National Convention at Sioux Falls, South Dakota. The Associated Press carried quite a story concerning Spriggs' arrival in Sioux Falls, his role as one of the principal delegates, and how the convention was likely to last a week.

In the meantime Thomas R. Hinds of Butte got busy. He was friendly with the Governor, was smiling, adroit, and clever, and as Connolly says, "his head was not just a loafing place for hair--he was one of the shrewdest politicians in a State of remarkably shrewd men."³ Hinds was a Clark adherent, but he was also a mining partner of Miles Finlen, one of Daly's most loyal friends. Hinds was looked upon by both factions as being

³Connolly, op. cit., p. 214.

friendly, so, all in all, Clark's selection of Hinds for the role he played could not have been better. So when Hinds walked into the Governor's office with a proposition for Smith to go to California at once, the Governor had no suspicions whatsoever, but that the trip was as bona-fide as Hinds represented it to be.

Hinds told Smith that Miles Finlen wanted him to pass upon the legal title of a valuable mining claim in California that Finlen contemplated purchasing. This in itself was not unusual because Finlen had employed Smith as his lawyer a number of times before. Hinds while talking gave Smith a check for \$2,000 as his retainer. Of course, Smith agreed to go at once. He left State Senator Edwin L. Norris (also Governor of Montana at a later time), a Daly man, as Acting Governor in his absence.

Within one hour after Governor Smith's departure for California, Lieutenant-Governor Spriggs received a telegram in Sioux Falls, South Dakota. It merely said, "Weather fine, cattle doing well." But Spriggs immediately boarded a train bound for Helena. Another telegram was sent to Senator Clark in Washington as soon as Spriggs had arrived in the Montana capital. This made it possible for Charlie Clark to hand Spriggs his father's resignation at almost the same minute that the Senator arose to address the Senate. The date on the document that Spriggs received had been erased and changed, indicating that very likely Charlie Clark had been waiting several days to consummate this deal.

That same evening Spriggs appointed Clark to fill the vacancy caused by Clark's own resignation. Spriggs made the following public statement at the time he appointed Clark to succeed himself:

"...the people of Montana through their representatives, chosen at the last general election, selected W. A. Clark to represent them in the United States Senate, and it is my judgment that the selection should stand until such time as the people have an opportunity at the coming election to affirm or revoke it."

In his notice to Clark telling him of the appointment, Spriggs added, maybe with a touch of irony, or perhaps for public effect, "I trust you will accept." It has been said by those who should know that this little piece of strategy cost Clark another \$200,000.⁴

When Governor Smith woke up in San Francisco the next morning and was greeted by the news of Clark's resignation and reappointment, he was the most angry governor in America. He could easily see the whole plot when it was too late. He had been a political dupe; and since the public never forgave that kind of individual, he could visualize the end of his political career.

He started immediately to return to Montana, stopping only to give the following statement to the press at Ogden, Utah:

"This man Clark has been convicted by the United States Senate of perjury, bribery, and fraud, and it is an insult to the Senate to send him back to that body. It is a disgrace, a shame, and humiliation to the people of Montana, and the Senate should adopt the resolution and show him that they do not want him there, as it seems that he can take the hint in no other way. I wish to denounce in language as strong as I can command the contemptible proceedings taken to secure the resignation and appointment of W. A. Clark during my absence from the State. I went to examine the title of some mining property in California. Clark had repeatedly stated through the press that he would not resign under any circumstances, and believing this, and believing also that Lieutenant-Governor Spriggs was at Sioux Falls attending a national convention which had not yet convened when I left Montana, I had

⁴Connolly, op. cit., p. 214.

no hesitancy in going, and I notified Senator Norris to act if anything came up needing attention in my absence. I did not believe that Lieutenant-Governor Spriggs or any other sane man would appoint Clark, who stands before the world convicted of bribery, and whose oath was not believed by the Committee on Privileges and Elections of the Senate. This is only another one of the tricks, perjuries, and crimes resorted to by Clark and his minions to fasten him on the State as a Senator."

Governor Smith returned to his executive duties three days after Spriggs had made the Clark appointment. While recognizing Clark's resignation, he refused to recognize his reappointment. In fact, he revoked it "as being tainted with collusion and fraud," and then announced the appointment of Martin Maginnis to fill the vacancy. Smith notified Clark to this effect, and also the President of the Senate.

Maginnis immediately went to Washington to take his seat, but the only thing he received was the privilege of the floor of the Senate. It was on May 29 that Senator Chandler asked the unanimous consent of the Senate to extend this courtesy to Maginnis, until the Senate should decide who would receive the vacancy. .

This request brought Senator Tillman of South Carolina to his feet. Tillman was never a man to see anyone receive less than what he thought might be due him. It was the same with Clark as it might have been with a tramp. "Does that include the other claimant?" he asked. He did not even mention Clark's name. When Chandler explained that Clark already had those privileges as an ex-Senator, Tillman said he wanted both claimants treated alike.⁵

⁵Congressional Record, XXXIII, p. 6190.

But the Senate did nothing about Clark during the rest of that session. It adjourned on June 7 (1900). It did not even vote to declare Clark's seat vacant. Whenever the subject would come up, Senator Chandler as chairman of the committee would ask unanimous consent to postpone any action for a few days. And this was always granted. Senator Chandler was on the job, however, so much so that he aroused Clark's ire; the latter said he "bulldozed" the committee into reporting against the Montanan.

After Clark returned to Butte on June 10, he explained why he had not tried to take his seat under the Spriggs appointment. He understood, he said, that some of the members of the committee intended to use unfair tactics against him, so an agreement was reached just to let the matter go until the next session.

But Clark was not through with Chandler. He was more exasperated than ever, when Chandler arose in the Senate and asked for funds to launch an investigation of Clark's appointment by Lieutenant-Governor Spriggs. Clark threatened to go into New Hampshire and wreak his vengeance by doing what he could to prevent Chandler's reelection. And those who should know claim that Clark did just that thing; it cost plenty of money, but that meant little to Clark. At any rate, whatever the cause, Chandler, though he had served a long time in the Senate, was defeated the next time he ran for reelection.⁶

⁶Connolly, op. cit., p. 219.

CHAPTER XII

CLARK'S FINAL VINDICATION

The next Legislature of Montana, the members of which would be elected in the preceding November, would meet in January, 1901, for a two months' session. The legislators would not only have to elect one Senator but two. Senator Carter's term would expire March 4, 1901, and Senator Clark's term had four more years to run; but since Clark had resigned, and the Senate had not acted upon either his or Maginnis' appointments, that seat was vacant also.

Clark determined to have a final vindication if that was possible, and that at the hands of the voters of Montana. He determined to be elected for the full term, and that meant to be elected to the seat now held by Tom Carter, a Republican. Clark had from June until November to campaign over the entire State to see that legislators were elected who were favorable to him. The die was cast. Those running for the State Legislature in 1900 were either for Clark or against him, and the voters had the job of making the final decision.

But things were to be easier for Clark in this election, for the very first time in his life. When Marcus Daly had testified in Washington on the afternoon of February 26, 1900, he was a sick man. After the investigation, Daly went to Europe to seek a cure at a German spa, but there had been no cure. He arrived back in New York on June 9, 1900. This was his last illness, but nevertheless his mind was alert and he was anxious to continue the political fight with Clark, as well as to cross

swords with F. Augustus Heinze (his own former protégé) who had by this time become a formidable business rival. But there was no more fight left in Daly. He was bedridden most of the time and under the constant care of a physician.

In the meantime he had lost much of his popularity in Montana, because he had turned over his Anaconda Company to the Amalgamated Copper Company, a giant holding company which was controlled by the same men as the Standard Oil Company, notably H. H. Rogers and the Rockefellers. Without Daly in the State personally to lead the fight, the Clark partisans were able to smear the old Daly machine with cries of "oil," "trusts," "capitalism," and all the other epithets they could think of. The demagogues had things pretty much their own way in this memorable political fight in the fall of 1900. And the beneficiary was William A. Clark.

Daly lingered on until one week after the election in November. He died on the 12th of that month. He was only 58 (Clark lived to be 86). Since it was something new in Daly's experience to lose an election, Glasscock¹ indicates that

"men and women may still be found in Montana who insist that he died of a broken heart. But the able physicians who attended him, less sentimental, reported that the cause of his death was Bright's disease, with complications."

And again--the beneficiary was William A. Clark.

Clark arrived back in Butte on the 10th of June, one day after Daly had returned from Europe. His shrewd and practiced eye took in both the

¹C. B. Glasscock, The War of the Copper Kings, (Indianapolis, The Bobbs-Merrill Co., 1935), p. 200.

political and commercial situation at a glance. It did not take him long to decide upon a political alliance with that independent buccaneer, F. Augustus Heinze, and to this Heinze had no objection.

Heinze, who was engaged in numerous law suits with the newly formed Amalgamated, was anxious to elect his two hand-picked Butte judges: William Clancy and Edward W. Harney. Clark was anxious to elect his own candidates to the Legislature so he could be elected United States Senator for a full term. Heinze was a mob orator and rabble-rouser; Clark was more aloof and cultured; Clark had the money, and Heinze knew how to spend it to the best advantage. Together they made a good team. Clark had had many other lieutenants, but Heinze was in a class by himself: he was an organizer and a good publicity man, who knew all the fine points in the art of ballyhoo.

The first move of Clark and Heinze was to get the support of organized labor in Butte. That meant the miners. Rather adroitly, they let the miners' union know that if a petition was sent to them to cut the number of working hours per day from ten to eight, and at the same wages, it would receive a favorable response. The Amalgamated hired ten times as many men as Clark and Heinze and, as was to be expected, the miners' proposition was flatly rejected by its New York office. Daly was too ill to find out about this piece of strategy. After Clark and Heinze had put in the eight-hour shifts with no pay reduction, they both rode in a carriage at the head of the miners' procession on Miners' Union Day.

Heinze made the most of this: he spent a lot of Clark's money buying woodcuts and lithographs showing comparisons between the Amalgamated

and the Clark-Heinze miners working the different shifts. Heinze's continued appearance on the political platform made the campaign seem far more important. To fight one of the greatest corporations in America (Standard Oil) gave him heroic proportions in the eyes of the miners. Neither did he overlook the sympathy side of the issue. After reciting to the miners the Amalgamated's wrongs to them, he would then relate to them the wrongs that that so-called "giant octopus" had done to him. It had tried to run him out of the State, he said.

This last was not true, however. When the Amalgamated was formed, Daly and his associates made Heinze a generous offer, in consideration of which he was to cast his lot with the Amalgamated. But Heinze wanted still more money. And again, Heinze was always the independent buccaneer; he did not cooperate well. According to him, there were only two kinds of men in the world: those who gave orders, and those who took orders--and he preferred to give them. He would rather fight than knuckle.²

The next thing Clark and Heinze had to do was to get control, if possible, of the Democratic organization in Montana. There could never be any compromise between the two Democratic factions in Montana. The fight was of too long standing and had been far too bitter, and in this presidential election year of 1900, there was no love feast with which to make a beginning. In the Silver Bow County Democratic Convention,

²In this attitude Heinze was quite different from former Senator James E. Watson of Indiana, who made famous the statement: "If you can't lick 'em, join 'em." Watson has written his memoirs: As I Knew Them, which is interesting. Published by Bobbs-Merrill Co., Indianapolis, 1936.

controlled by the Amalgamated, the Clark delegates had walked out. They later organized a separate State convention. The meeting of the State Democratic committee in Butte was one of the most acrimonious and turbulent in the entire history of Montana. Each faction held a State convention, and each convention elected a slate of delegates to go to the National Democratic Convention at Kansas City. Clark had no difficulty in persuading the National Convention to accept his group of delegates. This meant that the Clark State convention was the regular Montana Democratic Convention, and thus Clark received control of the Democratic party in Montana and again became a national figure.

The campaign was wild, exciting, and entertaining. It is safe to say that neither side overlooked anything; certainly this was true in the case of Heinze. He prepared popular songs which told the history of the Standard Oil Company. One song was We Must Down the Kerosene, Boys, to the tune of The Wearing of the Green. He hired buffoons and stage clowns from New York, Boston, and Chicago. Colonel W. A. Thompson, formerly of the Boston Opera Company, was manager of the vaudeville part of the campaign.

The Anaconda Standard, Daly's organ, announced the receipt of some new books, reviews of which would appear later, it said. Some were: The Theory and Practice of Boodling, by Prof. John B. Wellcome, ex-Principal of the W. A. Clark Boodling Institute; Reminiscences of the United States Senate, or The Four Hottest Months of My Life, by Wm. Andrews Clark, Doctor of Boodle, author of My Untarnished Reputation, a fairy story.

If the opposition advertised an important meeting, by seven o'clock, Heinze's miners would be in possession of several important sections of the hall. At about the time when the speaker would deserve a lot of applause, at a given signal from the leader, one section of miners would get up and walk out. In a few minutes this performance would be repeated in another part of the hall, then again and again, until a large part of the audience had gone. This was not only exasperating, but the candidate was made to feel his whole effort had been futile.

Connolly tells of one interesting incident:

"One miners' boarding house quartered three hundred of Heinze's miners. A day or two before election day someone smuggled into the place a green guest who immediately developed a case of small pox--in any event, a physician was called who pronounced it an orthodox case, and the boarding-house was ordered under quarantine. By a singular precaution, a strong guard was conveniently handy, and the place was surrounded on election day. About twenty of the marooned voters escaped through secret exits and cast their ballots for Heinze, but they were not enough to carry the precinct."³

Glasscock quotes a contemporary newspaper that gave a good description of the campaign in Montana:

"Helena, Oct. 24, 1900.--W. A. Clark himself is engaged in a tour of the State seeking vindication, as he terms it. He is accompanied by his band, whose thirty-five members receive \$6 a day and all expenses; the Charlie Clark drum corps of twenty-five members at \$5 each, and a dozen or so imported spell-binders. A carload of fireworks is sent out each week from headquarters to make a proper display. For example, in Helena last Saturday night some \$2,500 worth of red fire and fireworks were distributed among the urchins of the town to welcome Clark, although this is the only town in the State where he is received with any degree of enthusiasm. In addition the men got \$10 each to carry transparencies, picks, tools, etc., to show the esteem in which the laboring element holds him.

³C. P. Connolly, The Devil Learns to Vote, (New York, Covici Friede, 1938), p. 239.

"Daly...is represented by some of the ablest politicians in the West who are making Clark's pathway anything but pleasant, picturing him as a convicted briber and corruptionist. Perhaps the most persistent man on Clark's trail is Governor R. B. Smith....

"Both men sent agents all over the state purchasing country newspapers. Sometimes the rivalry was so keen that the country editors got four or five times the original costs of their plants, together with a year's contract as managing editor...with the result that each county seat has its Clark and its Daly paper....

"Even the baseball league was not exempt from the influence of the feud. During the middle of the season, Helena and Anaconda were struggling for the leadership with a series between them in progress at Anaconda. Clark favored Helena and Daly, Anaconda, just as they had done in the capital fight. So at a conference of Democrats in Butte he proposed to take the whole party to Anaconda to root for Helena. The thought was no sooner conceived than put into execution, and purchasing several thousand yards of red and yellow ribbon, the Helena colors, which were cut up and pinned on the delegates, he chartered a special train and started for Anaconda. The score was tied but the rooters soon had the Anaconda club in the air, and Helena had the lead.

"But the Daly crowd was not to be outdone. Upon the arrival of the Clark special at the fairgrounds, the friends of Daly sent emissaries up town to search for small boys who were armed with bells, horns, and tin cans. The boys were admitted free and certainly made an unearthly noise, but they came too late and Helena won out. Clark is credited with saying that the victory was worth \$5,000."⁴

With such a fight going on within the Democratic party, the Republicans hoped that they might be successful, but they had no chance. They did little better than they had two years before, and this in spite of the great prosperity during the McKinley administration. Montana was a Democratic stronghold, especially if political conditions within the State were anywhere near normal. And, too, this was a mining State, so Bryan

⁴Glasscock, op. cit., pp. 197-9.

with his silver panacea of 16 to 1, had thousands of adherents. This was true even though the gold standard act had already been passed.

The remnants of the old Daly machine went all to pieces, and the Clark Democrats swept the State. Bryan received Montana's electoral votes, and a large majority of the newly elected members to the State Legislature were openly for Clark, having been elected on the promise to vote for him. And Heinze elected his two judges. The vaudeville brass bands, torchlight processions, and free champagne and beer had turned the trick.

When the Legislature convened, the Amalgamated and Standard Oil supporters tried their best to reelect Senator Thomas H. Carter. They had made one of those famous political somersaults from the Democratic to the Republican party. That was where they really belonged anyway, as they stood for the same things the Republicans did, and the financiers of the two companies in the East already were affiliated with the Republicans. But they were the Aldrich type, rather than the Theodore Roosevelt type of Republicans.

Clark's supporters fought their real battles in caucus rather than on the floor of the assembly. They had learned something from their experiences of two years before, and then again there was less publicity. The forty-seven Clark Democrats were joined by ten Populists making fifty-seven votes in all for Clark. He was elected January 16, 1901, twelve days earlier in the session than two years before. Senator Carter received thirty-one. Five anti-Clark Democrats had remained true to their convictions and to the Democratic Party; four of them voted for Martin Maginnis and one for Robert B. Smith.

Clark was happy. His real term in the Senate was about to begin. He could go back to Washington and sit as an equal among the men who had cast aspersions upon him before. The only thing he could have wished was that Marcus Daly had lived to see it. But he had received his vindication. Shortly after the election, he even made peace with the Amalgamated. It was to his interest to do so. Since the election was over, Heinze was not in a position to do him any more good, but the Amalgamated was in a position to do him a lot more harm. That concern controlled a number of United States Senators, so H. H. Rogers bluntly told Clark in New York that two-thirds of the Senators could again vote to unseat him.⁵ Naturally Clark capitulated in the face of such an ultimatum, and he was sworn in without opposition, March 4, 1901.

On the day Clark was elected, January 16, 1901, Helena really celebrated. "It's daylight until half-past seven tomorrow morning," was the cry of the crowds as they filed out of the State House. A telegram was sent for the Boston and Montana band of Butte, which arrived on a special train. "Turn the bars loose," said Charlie Clark. Champagne and cigars were as free as water. The crowd marched in procession to serenade the new Senator at the Helena Hotel. Clark responded to the crowd briefly. "I thank the people of Helena for their loyalty and friendship exhibited on so many occasions," he said.⁶ "You gave us the capital, Senator," shouted an admirer in return.

⁵C. P. Connolly, The Devil Learns to Vote, p. 242.

⁶C. P. Connolly, The Devil Learns to Vote, p. 241.

This campaign of vindication cost Clark well over a million dollars. Throughout the entire State his supporters spent money lavishly. Vast sums were distributed from his local headquarters in Butte. During the campaign Clark told one of his chief supporters that he did not understand why it was necessary to spend so much money; he pointed out that he was greeted by immense audiences everywhere. "Well, Senator," replied the dispenser of funds, "you must not mistake curiosity for popularity."⁷

⁷Ibid.

CHAPTER XIII

CLARK'S RECORD IN THE SENATE

Clark's regular term in the Senate began March 4, 1901, and lasted for six years. He was sworn in at the same time McKinley began his second term. But McKinley was the victim of an assassin's bullet, and except for the first six months Theodore Roosevelt was President during the entire period of Clark's term.

It is customary to think of Clark as being a poor Senator--that his record was largely a blank. This is hardly fair. His record compares very favorably with the majority of the Senators at that time. The many fine accomplishments of this period were due to the efforts of the President, rather than the Senate.

At this time the Senate was called "The Millionaires' Club." Clark was no exception--in fact, he was the richest man there. But the atmosphere of the Senate was not particularly congenial. His questionable election of 1899 and the resulting investigation had been damaging to his prestige. It was not so much the idea that money had been used--other Senators had had money used in their behalf, too. But Clark had not been as subtle as they; his agents, at least, had been more blunt, and had made some near irreparable mistakes.

Since the Republicans were in the majority in the Senate, Clark as a Democrat and a newcomer could scarcely expect to be a member of the little inner coterie of men which decided what the Senate would or would

not do.¹ Of the few Democrats who attained this distinction, probably Arthur P. Gorman of Maryland and Joe Bailey of Texas were the most famous. But Clark was not a leader, even in his own party. His work in the Senate was not as enjoyable as he had expected. The routine duties were rather irksome. Neither did he enjoy being a sort of errand-boy for his constituents. He did some good work, however, and some of his speeches show much thought and careful planning. He did not seek reelection. One term was enough.

Strictly speaking, this Senate could scarcely be said to represent the people. There is some evidence to show that seventy-five per cent of its membership represented instead the big business interests of the country: coal, oil, steel, lumber, railroads, factories, mines, banks, and shipping.² This group thoroughly believed in laissez-faire, or as Marcus A. Hanna said, "an alliance between politics and business" to the advantage of business.

Not much legislation was passed during these six years, especially that which benefitted the people as a whole. Two famous acts, however, should be mentioned: (1) The Hepburn Act, relating to interstate commerce, and (2) The Pure Food and Drugs Act, and Meat Inspection Act; these acts were literally wrung from a reluctant Senate by a progressive President.

¹Claude G. Bowers in his splendid book, Beveridge and the Progressive Era, makes no mention of Clark whatever; neither does David Graham Phillips in his series of articles that appeared in 1906 in the Cosmopolitan magazine called "The Treason of the Senate."

²David Graham Phillips, "The Treason of the Senate," Cosmopolitan Magazine, March to November, inclusive, 1906.

Two laws were passed to strengthen the Sherman Anti-Trust Act, but they were not particularly important. They were: (1) the Expedition Act (Feb. 11, 1903) which gave precedence on the Federal Court calendars to all suits dealing with trusts; and (2) the Elkins Act (Feb. 19, 1903) which made it possible to punish the receiver of railroad rebates as well as the giver.³

But Congress did little else. After the gold standard was adopted in 1900, nothing was done to remedy the evils of our antiquated currency and banking system to make it more nearly comply with the needs of business.⁴ Nothing was done to lower the extremely high tariff rates, although Roosevelt wanted to have this kind of a law passed; and little was done to further education. But worst of all, the Senate fought the President on his conservation policy, which it is generally agreed was the greatest service he rendered his country. Such important things as the income tax, direct election of Senators, the Underwood Tariff, the Federal Reserve Act, the Clayton Anti-Trust Act, and the Smith-Hughes Act, were all left to be dealt with by later Congresses.

As against the "do-nothing" policy of the Senate, President Roosevelt has a real array of accomplishments covering these six years. In

³This act made it possible for the government to stop the practices of such companies as Standard Oil, who had received \$10,000,000 in rebates from various railroads, by as early a date as 1879.

⁴After Clark had retired from the Senate, Congress passed the Aldrich-Vreeland Act, 1908, which provided for the issuance of emergency currency to be loaned to banks in times of stress by the Treasury on approved collateral. The panic of 1907 caused the passage of this relief measure.

addition to the conservation of natural resources, some of the more important ones are as follows:

(1) Twenty-five suits were filed against corporations for violations of the Sherman Anti-Trust Act. The most famous of these was the Northern Securities Case.

(2) The upholding of the Monroe Doctrine in 1902 when Germany blockaded Venezuela for the ostensible purpose of collecting a debt.

(3) The settlement of the anthracite coal strike of 1902.

(4) The invitation to Japan and Russia to make peace, which resulted in the Treaty of Portsmouth. For this Roosevelt received the Nobel Peace Prize.

(5) The invitation to France and Germany to settle their difficulties in Morocco at the Algeiras Conference.

(6) The "executive agreement" made with Santo Domingo when the United States acted as its financial receiver. The Senate refused to ratify any treaty with the little republic, but Roosevelt went ahead just the same, and the Senate gave in two years later.

(7) The negotiations incident to the building of the Panama Canal. The Senate ratified the treaties and Congress appropriated the money, but it is problematical whether or not anything could have been accomplished without Roosevelt.

(8) The part taken by the United States in the Second Hague Peace Conference.

(9) The beginnings of a better understanding with Latin America, and the establishment of a Pan-American Court to settle international disputes of the western hemisphere nations.

Roosevelt signed some legislation which he knew was imperfect, but he always felt that it was better to compromise and get something done than nothing at all. For this he was criticised by Senator LaFollette, who felt that the Executive should veto every law that had any flaws in it, and compel the legislative branch to pass a better law later. For this attitude, LaFollette claimed that Roosevelt was not as progressive

as he pretended to be. LaFollette was the more liberal of the two, but he lived many years ahead of his time. But Roosevelt felt that "half a loaf was better than none."

Clark was sworn in immediately after a very brief address by the Vice-President, shortly after twelve o'clock noon, March 4, 1901. He was escorted to the Vice-President's desk by Senator Jones of Arkansas, where he took the oath of office. The Senate remained in session until March 9, in order to confirm some Presidential appointments, after which it adjourned until the following December.

On the 2nd of December, the Senate was called to order at twelve o'clock noon by President pro tempore William P. Frye of Maine. Shortly afterward, Clark presented the credentials of Paris Gibson, his newly elected colleague. He then escorted Mr. Gibson to the Vice-President's desk to be sworn in.

In this 57th Congress Clark was appointed to the following standing committees⁵:

- (1) On the District of Columbia
- (2) On Indian Affairs
- (3) On Mines and Mining
- (4) On Organization, Conduct, and Expenditures of the Executive Departments
- (5) On Pacific Islands and Porto Rico
- (6) On Relations with Canada

and also upon the following select committees⁶:

⁵Congressional Record, XXXV, pp. 387-8.

⁶Ibid., p. 388.

(1) To Investigate the Condition of the Potomac River Front at Washington

(2) Standards, Weights, and Measures.

During this session of Congress Clark had very little to say, but before he had made any speeches he was able to get the Senate to act favorably on an appropriation of \$400,000 for the post office at Butte, Montana. This occurred on January 30, 1902.⁷

On April 30 Clark made a few remarks concerning public lands. The question before the Senate was whether or not a treaty with the Sioux Indians of the Rosebud Reservation should be ratified. The treaty contained a clause making possible the purchase by the Government of Indian lands that would later be thrown open to homesteaders. Some Senators expressed grave fears for such a procedure, claiming that there was bound to be speculation, and some of the lands were sure to go to individuals through fraudulent means. Even Senator Tillman made the following interesting observation:

"The question is, Are we going to buy them, (the lands), the United States furnishing the money from the taxpayers of the country throughout the United States, in order to give them away? I do not believe there is any justice in that proposition myself."⁸

Clark pleaded for the homesteader. He used as an example how the homesteaders had made a garden spot out of a desert that had once belonged

⁷This bill when sent to the House merely died in committee; consequently four years later Clark again introduced a measure for money for the Butte post office. And again it passed the Senate, and again it died in a House committee.

⁸Congressional Record, XXXV, p. 4861.

to the Crow Indians--by diligent effort making land that was almost of no value worth from \$15 to \$30 an acre.⁹ He also pointed out that the law was adequate to prevent fraud, that fraudulent ownership could not be obtained except by perjury and subordination of witnesses and that there was a penalty for that.¹⁰ He further made a plea for the Indians to become self-supporting, insisting that it was better by far for the Government to provide them farm animals and implements and let them make their own living than for the Government to feed, clothe, and pauperize them.¹¹ He concluded by saying:

"I believe in the policy of throwing open these lands for free entry to the struggling yeoman of the country, where they may establish happy homes, enjoy the fruits of their own industry, and thereby contribute to the advancement of civilization to the great empire of the West and likewise to the wealth of the nation and of the world."¹²

Clark probably knew about the tremendous frauds that had been practiced in the acquiring of public lands. The big lumber companies had acquired thousands of acres by the very means Clark suggested, that is, by perjury and the subordination of witnesses. And furthermore the railroads had gotten considerable land without fulfilling their obligations to the Government. Clark's statements about the small homesteader were undoubtedly true.

⁹Ibid., p. 4862.

¹⁰Ibid., p. 4861.

¹¹Ibid., p. 4862.

¹²Ibid., p. 4862.

On May 2 he did not vote on Senator Platt's amendment to compel the homesteader to pay \$2.50 per acre for the land. This amendment would have replaced the clause permitting the homesteader to obtain his land free of charge, but the Senate rejected Platt's proposition¹³, and three days later passed the bill in its original form, Clark voting for it.¹⁴

On May 14, 1902, Mr. Clark made a short talk concerning the building of a Union Railroad Station in Washington. The Committee on the District of Columbia, of which Clark was a member, brought out a bill proposing to build the new depot that would be used by both the Baltimore and Ohio and the Pennsylvania Railroads; to pay each railroad \$1,500,000 so the terminals could be moved; to provide \$500,000 for paving and grading, \$600,000 for damages to property, and more money for incidental expenses.¹⁵ Clark explained that he was not an obstructionist, that he was not against improvement, and that he was anxious to beautify the City of Washington, but that this whole bill was unbusinesslike because it was all largely guesswork as to its cost and its effect. He pointed out that the committee was not sure as to the actual cost of any of the items listed in the bill; he said:

"...no business man with any sagacity or training, unless he cared to run the risk of bankruptcy proceedings, would undertake to go into an enterprise of this kind unless he had all the data to enable him to count the cost thereof."¹⁶

¹³Ibid., p. 4671.

¹⁴Ibid., p. 5024.

¹⁵Ibid., p. 5426.

¹⁶Ibid., p. 5626.

If the station was located at the place called for by the bill, a tunnel through the hill on which stood the Congressional Library would be necessary. To Clark, who had had extensive experience with tunnels and shafts in copper mines, this looked extremely dangerous and he did not hesitate to say so.¹⁷ He was assured by Mr. Gallinger of New Hampshire that the tunnel would be 175 feet away from the building and 64 feet below the surface of the ground¹⁸, and that competent engineers had testified as to its safety and feasibility.

The section of Washington where the depot was to be located was a very low place known as "Swampoodle." Clark pointed out that a fill of thirty to thirty-six feet would be necessary if the station were built at all, and that this would be damaging to property owners who had homes nearby; that unless these homes were raised accordingly they would be far below the new surfaces of the streets. He further indicated that many of these people were poor and unable to make any improvements in their homes, but that they were entitled to consideration as well as the city and the railroads.¹⁹ The way the bill ignored this phase of the question practically amounted to confiscation of property, he said.

At the end of his speech Clark moved that the bill be recommitted, "in order that the proper data and information" be obtained upon the subject, so that it could be voted on with intelligence.²⁰ After considerable

¹⁷Ibid., p. 5625.

¹⁸Ibid., p. 5634.

¹⁹Ibid., p. 5426.

²⁰Ibid., p. 5427.

further debate, on the next day, May 15, the Senate rejected Clark's motion to send the bill back to the committee by almost a strict party vote of 43 to 23. The bill in its original form was passed, just a few minutes later, 45 to 24, Clark voting against it.²¹

The last speech that Clark made in this session was on June 19, 1902, when he spoke in favor of a canal connecting the Atlantic and the Pacific, to run through Nicaragua. He was against the Panama route. He said that the people of the United States wanted the canal and that it was bound to come even though he knew that there were "powerful individual and corporate influences actively at work to resist by every possible expedient the inauguration of this great enterprise."²² These influences, as he later said, were the railroads and certain seaboard towns who thought they might suffer financial loss because of less business.

He pictured the Nicaraguan route as the preferable one for many reasons: (1) it was much less involved in regard to vested rights and titles than was the Panama route; (2) its local conditions were more favorable than those of Panama; (3) it had closer proximity to our ports; (4) it had freedom from calm belts which would render it more available to sailing vessels; (5) its climatic surroundings were much more healthful; (6) the Nicaragua route would be a much less difficult engineering feat than the Panama; (7) it would be without entangling legal complications; (8) the people of Nicaragua not being revolutionary and lawless, there

²¹Ibid., p. 5471.

²²Ibid., p. 7059.

would not be a continual and probably perpetual menace to property rights; and lastly (9) that it is never wise to attempt "to reconstruct upon foundations that have brought havoc and ruin to others"; that disaster awaits the nation which "should undertake to revivify this hideous moribund, whose brief existence has left a heritage of ruin, dishonor and desolation"; that the "Panama Canal is a 'hoodoo,' to be shunned and avoided."²³ Clark ended his speech by picturing the Nicaraguan route as "initiating innumerable new enterprises and giving a new impetus to those already established and adding new luster to the glory of the nation."²⁴

A few other minor facts of Clark's initial session should be noted. He introduced nineteen individual bills for pensions or relief and the following other bills: (1) for relief of owners of land in forest reservations; (2) to build two dormitories at the Fort Shaw Industrial School; (3) to provide for Federal inspection and taxation of mixed goods and the proper marking of them; (4) to grant to the State of Montana 50,000 acres of land to aid in the establishment and maintenance of an asylum for the blind; (5) also to grant to the State the same amount of land for the Soldiers' Home at Columbia Falls; (6) to purchase cattle for the Indians on the Northern Cheyenne Indian Reservation, and for the construction of a fence around a portion of the reservation; (7) to establish an additional land office at Twin Bridges, Montana.²⁵ Except for the bills for

²³Ibid., p. 7060.

²⁴Ibid.

²⁵Ibid., Index, p. 103.

pensions, no action was taken by the Senate on any of these bills; they were merely referred to committees which never reported them on the Senate floor.

Some phases of Clark's voting record are interesting. He voted for an amendment to the Constitution to have United States Senators elected by a direct vote of the people.²⁶ After he had done so, however, he withdrew his vote because he had a pair with Senator Beveridge who was absent. He voted for the prohibition of Chinese immigration into the United States.²⁷ He voted in favor of the construction of an Isthmian Canal.²⁸ He voted against granting subsidies to vessels.²⁹ And lastly he voted against the repealing of war-revenue taxes.³⁰

In the next session of Congress, which was the short session extending from December 1, 1902, to March 4, 1903, Clark did very little. He was appointed on one more committee. Senator Bailey asked the unanimous consent of the Senate to be relieved from service on the Committee on Foreign Relations and that Clark be appointed in his place. There was no objection, so the order was made. This committee is always one out of the half dozen or so most important committees of the Senate. The rest of his record is as follows:

²⁶Ibid., p. 6596.

²⁷Ibid., p. 4252.

²⁸Ibid., p. 7074.

²⁹Ibid., p. 2907.

³⁰Ibid., p. 3770.

(1) He offered an amendment to the District of Columbia appropriation bill, to appropriate \$2,000 to improve Kansas Avenue.³¹

(2) He introduced a bill to cancel the taxes assessed against the Kall tract of land in the District of Columbia.³²

(3) He introduced five individual pension bills.³³

The Senate voted on practically nothing during the short session. There were two resolutions of inquiry: one to investigate courts-martial in the Philippines, on which Clark did not vote; and the other to investigate the military occupation of Panama and Colon--Clark voted in the negative. He voted for an appropriation to construct a channel in the Sabine Lake in Texas. The rest of the votes concern such things as recesses, adjournments, and orders of business and so are relatively unimportant.

For the 58th Congress, beginning March 5, 1903, Clark's committee appointments were practically the same as for the preceding Congress. He was taken off the Committee on the District of Columbia and the Committee on Organization, Conduct, and Expenditures of the Executive Departments, and instead was placed upon the Committee on the Library and, as has been noticed through the intercession of Senator Bailey, the Committee on Foreign Relations.³⁴

Before the regular meeting of Congress in December, President Roosevelt called the Senate into a special session beginning March 5 which

³¹Congressional Record, 57th Cong., 2 Sess., XXXVI, p. 1031.

³²Ibid., p. 814.

³³Ibid., Index, p. 46.

³⁴Congressional Record, XXXVII, p. 478.

lasted two weeks, for the purpose of confirming appointments and to discuss the Treaty with Colombia relating to the Panama Canal. The President called the entire Congress into session on November 9, 1903, and this so-called first session merged into the second session which began December 7. Up and until this latter date Mr. Clark had introduced but five individual bills: four of these were for pensions, and the fifth one was to remove the charge of desertion from one John Murphy, alias John Martin.³⁵

During the second, or regular, session which lasted from December 7, 1903, until April 28, 1904, Clark introduced two individual bills for pensions and one amendment to Congressman Joseph M. Dixon's House Resolution to ratify an agreement with the Crow Indians.³⁶ According to the terms of this agreement, certain lands of the Crow Reservation were to be open to homesteaders and the government was to reimburse the Indians for the loss of their territory.³⁷ This resolution was approved by President Roosevelt on April 27, 1904.³⁸

Clark had practically no voting record for this session of Congress as he was absent most of the time. He was paired, however, for a few votes. On the important Treaty with Panama for the construction of the canal, he

³⁵Nothing happened in regard to this bill at this time, so Clark introduced it a second time nearly four years later. The Committee on Military Affairs reported on it adversely. It was sent back to the committee and indefinitely postponed.

³⁶Congressional Record, XXXVIII, Index, pp. 310 and 3423.

³⁷Ibid., p. 5182.

³⁸Ibid., p. 5776.

with Mr. Quay were paired in the affirmative, with Mr. Overman in the negative. That vote required a two-thirds majority, the result favoring it 66 to 14.³⁹

On the question of carrying into effect a convention between the United States and Cuba to establish better trade relations, Mr. Clark was paired with Mr. Hawley of Connecticut who was absent because of sickness. Mr. Gibson announced that if Clark were present and voting, he would have voted "nay."⁴⁰

The third, or short, session of the 58th Congress began December 5, 1904, and ended March 4, 1905. According to the Record, Clark was on but three committees for this session⁴¹: that of (1) Mines and Mining, (2) Canadian Relations, and (3) Indian Affairs. At this time Clark introduced two bills for relief or pensions, and one other bill (Senate Bill 6734) "to authorize the Secretary of the Interior to construct irrigation works on certain streams in Montana and Wyoming."⁴² This bill was referred to the Committee on Irrigation and Reclamation of Arid Lands but was never reported out of the committee.

Mr. Clark was successful in getting the Senate to act favorably on two amendments which he proposed to the Indian Appropriation Bill. The first amendment gave the Catholic organizations more land for use because

³⁹Ibid., p. 2261.

⁴⁰Ibid., p. 286.

⁴¹Congressional Record, XXXIX, p. 252.

⁴²Ibid., Index, p. 53.

of their excellent work among the Flathead Indians. The amounts were: (1) for the Society of Jesus, 640 acres; (2) for the Sisters of Charity of Providence, 320 acres; for the Ursuline Nuns, 320 acres. Forty acres of the 640 were to be granted outright to the Jesuits, but the rest of the land was to be held only as long as the various societies used it. This amendment also authorized the President to give to the State of Montana 160 acres of land for the University of Montana to be used as a biological station. The Governor of Montana was to locate this land with the approval of the Secretary of the Interior.⁴³

Clark made a short speech in favor of his amendment, in which he paid tribute to the work of the Catholic Societies in the Flathead Reservation. He mentioned Father DeSmet who had established the first mission in Montana in 1852; he told how the Indian girls were taught sewing and housework in addition to reading and writing; of the work of the Indian boys even to their having a brass band.⁴⁴ He also spoke very favorably of the splendid work being done by the professors at the University of Montana: of their researches, their "wonderful discoveries," and of the "wild and picturesque region...rich in biological specimens."

He was followed by Senator Bard of California who spoke against giving the Catholics any more land, insisting that it was unnecessary. An immediate vote of the Senate rejected Clark's amendment.⁴⁵

⁴³For text of Clark's Amendment, see Congressional Record, XXXIX, p. 3646.

⁴⁴Ibid., p. 3646.

⁴⁵Ibid., p. 3647.

But Clark was not satisfied. He persuaded the presiding officer to consider the amendment as still an open question. At this time he spoke at greater length, becoming more eloquent in his glowing tributes to the Flatheads. He spoke of the "self-sacrificing pioneer missionaries," especially Father Ravalli. He then briefly told the story of the uprising of the Nez Perce tribe--how they attempted to escape to Canada through the Territory of Montana, and that there were not enough soldiers to stop them; that since the Indians outnumbered the troops,

"an assault...would have undoubtedly resulted in the discomforture of the soldiers and a great loss of life would have ensued; and in their escape they would have left a trail of burnt habitations, bloodshed, and carnage all through that beautiful valley."⁴⁶

Clark then told what the Flatheads did:

"All this was avoided by Charlot, the chief of the Flatheads, now 80 years old...He took 100 picked warriors and went to the camp of Chief Joseph and informed him that if he molested or injured a single one of the white settlers of that valley, who were his neighbors and friends and among whom he had lived so long and whom he fondly loved, he would himself lead the whites to give him battle. The result was that Chief Joseph, under promise to molest no one...retreated and passed out...by a circuitous trail...to the Big Hole Basin without molesting anyone."⁴⁷

Clark ended his speech by saying:

"...I mention these incidents simply to show that this tribe of Indians, as well as their teachers, who have civilized and Christianized them, are entitled to fair and, I may justly contend, generous treatment on the part of those who control the affairs of this Government. The question of sect or creed should not enter into this discussion...And now, in all sincerity and earnestness, I ask that this amendment may prevail."⁴⁸

⁴⁶Ibid., p. 3648.

⁴⁷Ibid.

⁴⁸Ibid.

And the Senate on a second vote agreed to Clark's amendment.

Clark's second amendment to the Indian appropriation bill was passed without debate. It stated that:

"The President is...hereby authorized to reserve not to exceed 5,000 acres of timber land for the use of said Indians as a fuel supply under such restrictions and regulations as may be prescribed by the Secretary of the Interior."⁴⁹

This was passed on February 28, 1905, only four days before the end of the session.

During Clark's entire term in the Senate, the question of admittance into the Union as States the Territories of New Mexico, Arizona, and Oklahoma kept coming up time after time. Clark, who had financial interests in Arizona and New Mexico, was very anxious to see the same thing happen in the case of Oklahoma, but he had no personal interest there. In this same Congress he spoke at length giving the reasons for his position on this question.

He first spoke of Oklahoma and Indian Territory which he thought were entitled to separate admission; that they each had nearly half a million inhabitants, or "1900 per cent more than Indiana at the date of its admission."⁵⁰ He proceeded to extol the natural resources of both the territories, that both were "richly endowed with abundant resources, comprising fertile lands, deposits of coal and oil, and great forests of useful and ornamental woods"; and that the fertile agricultural lands "have ample streams of running water, and are favored with a sufficient

⁴⁹Ibid., p. 3652.

⁵⁰Ibid., p. 1676.

rainfall to preclude the necessity of irrigation."⁵¹ He said that the people of the two territories "should scornfully protest against the attempt to consolidate them into one state."⁵²

Clark then turned his attention to New Mexico and Arizona and began by saying that he was "unalterably and emphatically opposed" to having them consolidated into "one sovereign State of the Union."⁵³ Senator Beveridge who had charge of the bill was opposed to admitting them separately, because a visit to the Territories had convinced him that they did not have enough "collaterals placed in their hands by nature"⁵⁴ to support a large and growing population. He did believe that if the two would combine there would be ample population and resources for one State.

After discussing the size in area and population of the two territories, Clark showed the disadvantages of territorial government. His objections:

(1) A resident of a territory does "not enjoy the full privileges of American citizenship," as for instance he cannot vote in a Presidential election.

(2) He does "not enjoy the protection to person and property that he is entitled to and would receive under State government."

(3) The judicial systems of the Territories are "far from satisfactory and do not meet the requirements of the people."

⁵¹Ibid., p. 1676.

⁵²Ibid.

⁵³Ibid., p. 1677.

⁵⁴Beveridge said these were "streams bank full, rainfall, and soil."

(4) It is impossible to make rapid strides in the development of natural resources under Territorial government.

(5) Public improvements "invariably follow the transition from Territorial government to statehood."

(6) People seeking new homes hesitate to move into a "Territory" because it "seems to convey the idea of frontier life" with its "usual unsettled conditions," and its lack of educational advantages.

(7) In like manner capital hesitates to enter a "Territory" because of uncertainty and lack of political stability--great improvements and industrial enterprises tend to develop elsewhere.

(8) While Congress has the power to change boundaries of Territories and divide them, there is no precedent to show that it has enlarged one, or consolidated two into one.

(9) The two Territories differ in many respects: "lying on opposite sides of the...continental divide, the topography, geology, climate, and resources are all dissimilar."

(a) The people of New Mexico are "largely engaged in coal mining, agriculture, and pastoral pursuits," while there is some mining of precious metals.

(b) "In Arizona, agriculture, stock raising, and fruit growing are largely pursued," but the greatest industry there "is the mining of silver, gold, and copper ores, and the reduction" of them.

(10) The wishes of the people of the Territories were for separate statehood and their wishes should be respected.

In the latter part of his speech Clark extolled the resources of the two Territories and somewhat of the West in general. He pointed out that the new dam on the Salt River would make possible the irrigation of 150,000 acres of land directly, and of another 100,000 acres indirectly because of the generation of power to pump the water from the low sections and valleys. He prophesied that in 1905 Arizona would produce 250,000,000 pounds of copper; that in 1903, 147,000,000 pounds had been produced which had been a 25 per cent increase in three years. He did not forget to

mention that Arizona and New Mexico were "destined to become the great sanitarium in this country" for the purpose of curing tuberculosis. He spoke of the "dry and invigorating air" and the climatic conditions which made that possible. Clark ended his speech by saying,

"...allow us to throw off the shackles of a dispiriting and intolerable system of Territorial government, whose tendency is to cramp and dwarf the progress of these Territories rather than to build them up.

"With full earned privileges, justly accorded to the great West, it will join hands with the East, the Middle West, and the South to eliminate sectional strife and work together in harmony in a common cause--the uplifting of mankind and the honor of the nation."⁵⁵

Nearly two years later, March 9, 1906, Clark made another short speech, when the subject came up again for discussion. He was still incensed over the idea of consolidating the two Territories into one sovereign State. In this connection he said:

"We hear about the much-lauded 'square deal' which is said to govern the acts of this Administration, but I am sure it will not apply to this proposition. It is a violation of the principle of home rule, which has always been contended for by the American people...."⁵⁶

While still holding tenaciously to his view against joining New Mexico and Arizona together, he had to a certain degree become reconciled to the same idea with respect to Oklahoma and Indian Territory. He said:

"...I am in favor of...allowing statehood to be conferred upon Oklahoma and Indian Territory jointly as it appears they so desire.

⁵⁵ Clark's entire speech is given in Congressional Record, XXXIX, pp. 1676-1680.

⁵⁶ Congressional Record, XL, p. 3587.

"Doing this, I do not relinquish my convictions...when I contended for separate and independent statehood for all four of the Territories...I have no desire whatever to prevent Oklahoma and Indian Territory from being admitted into the Union of States; but I will never consent to the joint statehood of Arizona and New Mexico."⁵⁷

Clark should have been pleased the way this question was finally settled. Oklahoma and Indian Territory were consolidated into the one State of Oklahoma and admitted into the Union, the President signing the act June 16, 1906, and the following year she took her place as a full-fledged member of the United States. So far as Arizona and New Mexico were concerned, the people of the Territories were allowed by the Foraker Amendment to vote on whether or not they desired joint Statehood. New Mexico approved it by a two-thirds majority, but Arizona overwhelmingly turned it down by a vote of about six to one. But six years later, 1912, the two were finally admitted separately into the Union. Clark had been out of the Senate five years at that time, but he must have derived satisfaction nevertheless at the turn of events, even though he had had no direct part in it.⁵⁸

The other votes taken in the short session ending March 4, 1905, were nearly all for appropriations and therefore unimportant.

⁵⁷Ibid., p. 3588.

⁵⁸In this connection it is interesting to note that Senator Beveridge was also out of the Senate in 1912, he having been defeated for reelection in 1910. He had done more than any other man in Congress to make possible the joint statehood of Oklahoma and Indian Territory, and it was greatly appreciated by the people of that locality. He had tried to do the same thing for New Mexico and Arizona and was greatly disappointed by Arizona's adverse vote in 1906. He knew that the vote in Arizona had been brought about largely through the influence of the Federal office holders and the great mining corporations, the most important of which (United Verde Mines) were owned by Clark.

The 59th Congress, called into special session by the President to confirm appointments, began its deliberations March 4, remained in session until the 18th of that month. The term of Paris Gibson having expired, Thomas H. Carter, Montana's newly elected Senator, was on hand to take the oath of office. Immediately after the opening address by Vice-President Fairbanks, Carter, when his name was called, was escorted to the desk by Senator Clark when he took the oath. It will be remembered that these two men were of opposite political faiths, that they had been antagonists in many former political battles in Montana, and that Carter, when Senator in 1899, had been the one to present the memorial of the Montana Legislature, and a second memorial of the citizens of Montana that Clark had not been duly and legally elected United States Senator. If there was any antagonism between the two men, it did not interfere with the usual courtesy which a Senator is expected to show to his colleague. But when Carter presented the memorials, he was wise enough to refrain from any personal comment.⁵⁹

Clark was a little busier in this first or long session of the 59th Congress (December 4, 1905-June 30, 1906).

(1) He introduced nine individual bills for pensions and relief.

(2) He introduced a bill to survey and allot the lands embraced within the limits of the Blackfeet Indian Reservation,

⁵⁹It is interesting to note here that there were also memorials presented that Nathan B. Scott of West Virginia had not been legally elected United States Senator. The same committee investigated Scott that also investigated Clark. But Senator Elkins, the other Senator from West Virginia did not present the memorials. It was done by Senator Jones of Arkansas. Had Carter been a Clark man, he might also have refused.

and to open the surplus lands for settlement. This bill passed the Senate and was sent to the House Committee on Indian Affairs where it was allowed to die. (S. Bill 6354)⁶⁰

(3) He introduced three different bills concerning the judiciary: the first to create additional circuit courts of appeal; the second to provide for the payment of the costs in a suit where a judgment is adverse to the United States; and the third to provide for the defraying of traveling and other expenses of the judges of district courts. Nothing happened in regard to any of these proposals except to send them to their committee assignments.⁶¹

(4) He also introduced a bill to have the lands of the Fort Peck Indian Reservation surveyed and allotted, but this bill never left the committee.⁶²

(5) He tried to get the Newlands Reclamation Act amended by the introduction of a bill but was unable to do so.⁶³

(6) He introduced a bill to have erected a statue of Charles Pierre L'Enfant. This bill never left the Committee on the Library.⁶⁴

(7) He introduced a bill to provide for the condemnation of underground rights of way in the working of mining claims. This bill died in the Committee on Mines and Mining.⁶⁵

One of the most important bills considered by this session of Congress was an act to make a final disposition of the affairs of the Five

⁶⁰Congressman Joseph M. Dixon introduced a similar measure in the House which was passed by the House and Senate, but was vetoed by the President because he felt that the water rights of the Blackfeet Indians had not been sufficiently protected.

⁶¹Senate Bills 83; 4153; 5309; 2253. Congressional Record, Index, 59 Congress, 1 Sess., p. 156.

⁶²Ibid., Senate Bill 3025.

⁶³Ibid., Senate Bill 5308.

⁶⁴Ibid., Senate Bill 3633.

⁶⁵Ibid., Senate Bill 2353.

Civilized Indian Tribes of Indian Territory. This bill originated in the House and from its title looked innocent enough, but after it reached the Senate an amendment was slipped into it which was anything but innocent. The House bill provided for a continuation and extension of the policy of leasing the Indians' coal lands to private mining companies. Under the guise of being mining companies, the railroads of the Territory had control of 112,000 acres. The Senate amendment proposed to sell outright these coal lands in blocks of 160 acres to each purchaser⁶⁶, which could only mean that sooner or later the railroad companies would own all the valuable mineral land in Indian Territory.

It was Senator LaFollette who offered an amendment to this Senate amendment which said that no railroad company should acquire any right, title, or interest in the coal and asphalt lands by purchase, and that if a railroad violated this provision the land should revert back to the United States government in trust for the Indian tribes.⁶⁷

Clark's position on this question seems uncertain and doubtful, yet his speech is apparently straightforward enough. He said,

"...I am in accord with the Senator from Wisconsin so far as the right of any corporations or carriers to obtain title to those coal lands is concerned. But I think that it is not opportune to consider the sale of those lands at this time."⁶⁸

⁶⁶Congressional Record, 59 Cong., 1 Sess., XL, p. 3058.

⁶⁷Ibid.

⁶⁸Ibid., p. 3060.

LaFollette claimed that he was voted down overwhelmingly on every proposition he brought forward in the Indian Affairs Committee, when he attempted to protect the rights of the Indians; that his own vote was the only one he could get, so he reserved the right to bring up any amendments that he desired on the floor of the Senate.⁶⁹ Clark was a member of that committee and attended its sessions when the bill was under discussion.

Yet he continued his speech in the following manner:

"When this matter was first brought to the consideration of the committee, it was the consensus of opinion of most members of the committee that the lands might or should be sold. It was stated that it was the desire of the Indians that the land should be sold. I believe they are always willing to sell anything they have in order to realize some ready money; but we must consider... that there are valuable interests there that we cannot dispose of without due and full consideration.

"It is not to be expected that the lands...would bring anything like an adequate price, and ample scope would be given for all sorts of combinations to gobble up those lands. I am informed that the coal is of excellent quality, selling at about double the price that obtains for lignites lying out in the Rocky Mountain regions. Therefore I am opposed to the proposition of selling or attempting to sell these lands. We know how improvident the Indians are. In a very few years they would spend the money, and in all probability be paupers, and would have to be taken care of by the Government.

"We wrestled with this proposition four and five and even six hours a day while it was before the committee, during several days' sessions, and the more we wrestled with it the more we got entangled. We voted in and we voted out propositions, and I believe there is not a single member of that committee who has a clear conception of the proposition...these coal lands...may be leased under similar conditions to the lands that are now being leased in that country, and as a result...the Indians would get the money from time to time that would subserve their purposes. In the end they would be better off, and at the same time they would be the owners of these vast coal deposits of immense and untold value."⁷⁰

⁶⁹ Robert M. LaFollette, Autobiography. (Madison, The Robert M. LaFollette Co., 1913), pp. 378-9.

⁷⁰ Ibid., p. 3060.

This whole controversy, causing a two days' discussion in the Senate and receiving much more publicity than the interests desired, compelled the whole project to be abandoned. The reading public soon knew that it was nothing but a scheme for the railroads to obtain control of valuable coal mines, and at a very cheap price.⁷¹

In another speech made during this same session, Clark had to come to the rescue of his colleague, Thomas H. Carter, who was being heckled rather mercilessly by Senator Tillman. Carter's easy assurance and smooth statements were challenged by Tillman who demanded more proof in the form of documents, which Carter was unable to show.

The question was over the water rights of the Blackfeet Indians. A dam had been built by the Conrad Investment Company on Birch Creek, which was the boundary line between the Blackfeet Indian Reservation on the south side and privately owned land on the north side. This meant that the abutment of the dam from the center of the stream to the right bank was on the public domain. Carter claimed that the company had obtained permission from the Department of the Interior to build the dam in that way. The company was selling water to the white homesteaders on the north bank, but there was little water left in the creek below the dam for the Indians on the south bank. At this time the Commissioners of Indian Affairs had asked for an injunction to be issued restraining the company from selling any more water to the homesteaders. These farmers would have been seriously threatened with drouth had this injunction taken

⁷¹LaFollette, op. cit., p. 379.

effect. It was Carter's amendment to the Indian Appropriation Bill that would have nullified the injunction. Tillman believed that Carter's amendment did not give due regard to the rights of the Indians.⁷² But it was Clark rather than Carter who saved the amendment.

He pointed out that there were only three residents on the reservation below the dam that might be affected, and that not one of these three men had ever cultivated an acre of ground. Clark went on to say:

"I repeat, that we deprive nobody of any rights by diverting the water from Birch Creek, but we do subserve the interests of several hundred intelligent, industrious American citizens, who have gone there in good faith on that great plateau of land of the most fertile character, but which cannot be cultivated without water, lying to the eastward, and which is served by the ditch of the...Conrad Investment Company."⁷³

Clark further told how the company had spend hundreds of thousands of dollars building the dam, one large ditch eastward for nearly a hundred miles, reservoirs for water storage, and another hundred miles of lateral ditches; also that the farmers themselves had invested in their homes all the way from \$500 or \$600 to \$4,000 each.⁷⁴ This speech was given on April 25, 1906, and Clark made it tremendously effective by showing that here was a problem that should be solved almost at that minute. He said:

"...now if this injunction suit, which has been filed, is not held in suspense until the reservation is thrown open and the right to the water is confirmed, these people will be absolutely ruined. They are now awaiting the action of Congress before they begin plowing."⁷⁵

⁷²Ibid., pp. 5810-3.

⁷³Ibid., p. 5814.

⁷⁴Ibid.

⁷⁵Ibid.

He concluded by saying:

"...I contend that the clause relating to the operation of the law of the United States governing water titles and water rights shall remain, and I can assure Senators that no injustice will be done to the Indians."⁷⁶

Carter's amendment was then agreed to without another word of debate.

Clark also gave Carter some aid in regard to getting an appropriation for a post office at Great Falls. Carter introduced the bill, but it was Clark who handled it on the floor of the Senate where it was passed, but it died in a committee in the House.⁷⁷

Clark made just one speech concerning the Hepburn Act or the so-called railroad rate bill. The question which bothered him was whether or not railroads should own mines and, if they did, whether they should be allowed to sell minerals or be restricted to merely producing them for their own use. A few Senators were inclined to keep the ownership of mines and railroads strictly apart.

Clark stated his views briefly and concisely, showing how necessary it was in his own case that, if he continued to operate mines, he had to have railroads. He said:

"I am prepared, when we get to the point, to support a reasonable rate bill...I am as much in favor of the regulation and restriction of the railroads of the country in all of their efforts to deal unfairly with the people as any Senator in this Chamber. I am particularly in favor of the prevention of rebates and discriminations against individuals, companies, and localities, which are the principal evils complained of, and I will go as far

⁷⁶Ibid., p. 5814.

⁷⁷Ibid., p. 8866.

as any other member of the Senate to adopt a penal provision for the punishment of such offenses."⁷⁸

Concerning whether or not railroads should mine, transport, and sell their own coal, Clark had the following to say:

"...in my judgment, such legislation does not properly belong in this rate bill. The difficulties are local in their character, and legislation of a general character like the proposed bill would not be applicable where the conditions are entirely different....

"...there was not a transcontinental railroad constructed across this continent that was not obliged to open up coal mines for its own use, and not only for its use, but for the use of the people settling along the lines of these roads to build up homes and open farms and mines. I know it was so in Montana, and in Montana today three-fourths of the coal consumed...is supplied by the railroad companies. There were times there when, notwithstanding the greatest efforts of those companies to supply the people with coal, owing to a congestion of business, there were coal famines in all the towns of Montana; and what would have been the condition of the people of that State had it not been for the railroads owning and mining and shipping supplies of coal to meet their requirements? They...have made it possible to open up mines all through that western country, supplying fuel not only for domestic, but industrial purposes, and those great industries which we find there" have thus been able to reach a "marvelous stage of development"⁷⁹ as a result. And in "no instance in my experience of over thirty years in Butte, no matter how scarce that commodity has been, have they ever varied the price of coal to the consumer."⁸⁰

Clark then proceeded to show the close connection between railroads and copper mining, that is, that such mining is practically impossible without railroad facilities. He said:

⁷⁸Ibid., p. 6564.

⁷⁹Ibid., p. 6565.

⁸⁰Ibid.

"Persons who own...mines of base metals cannot work them unless they have railroad facilities. Butte was kept back fifteen years for want of railroad facilities...in...Arizona ...I myself was obliged to build a road...28 miles in length ...before I could get the products of a copper mine to market. When I completed that road, some fifteen years ago, it became an interstate-commerce road, because all the products went out and other supplies came in through other States and Territories.

"By this provision, how am I to proceed? I am between the devil and the deep sea. I will either have to stop the operations of the mine or the railroad.

"I should like to know...what disposition are you going to make of such enterprises? Are you going to throttle them on account of some imaginary or actual grievance against roads elsewhere? I say 'imaginary' because a good deal of it is imaginary, although there are localities where evils do exist. Wherever a railroad company, owning its own coal mines, undertakes to mine coal and ship it out in competition with other coal mine operators and refuses to furnish them ample facilities for transportation of their products to the markets, I would be in favor of legislation as strict and radical as anyone here to prevent grievances of that kind. But I believe...that the consideration of this question should be had separate and apart from the great proposition with which we are now dealing. Let us endeavor to establish interstate commerce with such restrictions and prohibitions as will result in fair and equitable treatment in protection of the interests of both shipper and carrier, but in doing this we should not incur the risk of destroying or crippling legitimate enterprises. Therefore, as I said before, I am in every respect in sympathy with and in favor of stringent legislation, but I shall oppose every amendment of...a character which, in my opinion, will work a great injustice to a great number of people and result in harm to some of the great enterprises throughout the western country."⁸¹

As has already been noticed, Clark voted for the Hepburn Act when presented to the Senate in its final form on May 18, 1906.⁸² But there was nothing particularly radical about it. It was one of those pieces of legislation of which President Roosevelt believed it was better to get

⁸¹Ibid., p. 6565.

⁸²Ibid., p. 7088.

"half a loaf" rather than nothing. It provided: (1) that the membership of the Interstate Commerce Commission be increased from five to seven members; (2) that its authority be extended over express companies, sleeping-car companies, pipe lines, bridges, ferries, spurs, and terminals; (3) it forbade rebates and free passes; (4) it abolished "midnight tariffs" to favored shippers by requiring advance notice of all changes in schedules; (5) it prohibited the railroads from carrying any commodity (but timber) owned by themselves, except for their own use⁸³; (6) it prescribed certain methods of bookkeeping and opened the books of the railroad companies to inspection by the Commission; and (7) it gave the Commission the contingent power of reducing an unreasonable or discriminating rate upon complaint of a shipper, pending a judicial decision resulting from a review of the rates by the courts. But this law did not give the Commission the absolute power actually and definitely to fix railroad rates. This power was in the bill when it passed the House, but the Senate refused to concur in granting that much authority to the Commission.

Clark also voted for the Pure Food and Drugs Act which prevented the manufacture, sale, or transportation of adulterated, misbranded, poisonous, or deleterious foods, drugs and liquors. This law "met the bitter opposition...of the concocters of various patent medicines and synthetic foods which were sold to the public under false names."⁸⁴

⁸³This was the clause that worried Clark--known as the "commodity clause." It was practically annulled by judicial decisions. See David S. Muzzey, The United States of America, (2 Vols., Chicago, Ginn and Co., 1924), II, p. 427.

⁸⁴Ibid., p. 429.

Since the Constitution does not grant Congress any power or authority to protect the health of the people, this law could only be enforced through the Federal Government's power over Interstate Commerce. This meant that the law could not be enforced within the State where such medicines or foods might be manufactured. A State law would be necessary to cope with such a situation.

On a bill during this session to grant subsidies to vessels, Clark did not vote. The bill had a high sounding title: "A bill to promote the national defense, to create a naval reserve, to establish American ocean mail lines to foreign markets, and to promote commerce."⁸⁵ This bill passed 38 to 27. The way certain other Senators reacted to it is interesting. Carter joined with Aldrich, Allison, Foraker, Lodge, Tom Platt, Penrose, and Smoot to vote for it; Spooner aligned himself with LaFollette, Dolliver, and the Democrats in voting against it; and among those not voting besides Clark were Bailey, Beveridge, Elkins, Gorman, Knox, Depew (the greatest ship subsidy advocate in the Senate), and Tillman. A few of these Senators were paired, but to a Senator who does not wish to commit himself on a bill which is sometimes designated as "dangerous," it is convenient to be absent when a vote is taken, whether he has or does not have a pair. Clark was paired in this case with Senator Beveridge.

Two other important bills were passed in this session of Congress: (1) the Meat Inspection Act, giving Federal officials the authority to see that all meat to be shipped in interstate commerce comes from healthy

⁸⁵Congressional Record, op. cit., p. 2552.

animals and is packed under sanitary conditions⁸⁶; and (2) the Employers' Liability Act, making corporations engaged in interstate commerce responsible for injuries received by their employees.⁸⁷ This act also applied to the District of Columbia and the Territories.⁸⁸ The former act was bitterly fought by the beef trust, and the latter by the railroads.

The Meat Inspection Act was known as the "Beveridge Amendment," since it was tacked on to the Agricultural Appropriation Bill. Altogether there were five Employers' Liability Acts introduced into Congress in this session: two in the Senate, one each by Senator Daniel of Virginia and Senator Penrose of Pennsylvania; and three in the House, two of them by Mr. Gillett of Massachusetts, and the other by Mr. Bates of Pennsylvania. It was the bill of Mr. Bates which was passed.⁸⁹ It is impossible to know how Clark voted on these two bills. The Record does not give the individual vote of each Senator, but merely states that they were passed by the Senate. It is to be believed, however, that he voted for them, especially the one relating to meat inspection; but since he owned railroads and railroad stock and would be directly affected financially by the second bill, there is room for doubt as to just what his action was.

⁸⁶Muzzey, op. cit., II, p. 429.

⁸⁷Ibid., p. 430.

⁸⁸Congressional Record, op. cit., Index, H. R. 239, p. 206.

⁸⁹Congressional Record, op. cit., Index, H. R. 239, p. 206. This act was declared unconstitutional by the Supreme Court in 1908, on the ground that it failed to limit its operation to injuries sustained in interstate commerce. A new act, more carefully drawn, was passed in April, 1908, and was upheld by the court in a decision of January 15, 1912. See Muzzey, op. cit., II, p. 430.

Nevertheless, in the next session of Congress, December 3, 1906, to March 4, 1907, which was Clark's last political service, another Employers' Liability Act was passed. This bill, "to promote the safety of employees and travelers upon the railroads by limiting the hours of service of employees thereon," was a good test of Clark's true attitude, and here his record is clear.

The general idea of the law was to prohibit a railway employee from working more than sixteen consecutive hours unless a wreck or other emergency prevented the employee from getting back to his terminal, and to punish a railroad corporation for violation of any of the provisions of the act.

Clark voted for Senator Brandegee's amendment which gave the railroads many loopholes on the meaning of an emergency, specified sixteen hours out of twenty-six instead of the normal day of twenty-four, and indicated that a suit could not be brought against the railroad if a year had expired since the date of the violation. But this amendment was rejected.⁹⁰ Senator LaFollette's amendment, which corrected these bad features, was then voted on and accepted, Clark voting against it.⁹¹ Senator Gallinger then offered an amendment which would have weakened LaFollette's proposal by giving the railroads more leeway on the meaning of an emergency. Clark voted for this amendment but it was rejected (35-31).

⁹⁰Congressional Record, 59 Cong., 2 Sess., XLI, Part 1, p. 890.

⁹¹Ibid., p. 891.

⁹²Ibid., p. 892.

Senator Bacon then proposed that the law should not apply to any railroad if it lay wholly within the limits of one State. Clark also voted for this, but it was overwhelmingly rejected (46-16).⁹³

A second amendment was then proposed by LaFollette which would have prohibited the railroads from using the doctrine of contributory negligence against an injured employee, if an action was brought to recover damages. But the Senate even refused to take a "yea and nay" vote on this.⁹⁴ When the bill as a whole was finally voted on, Clark voted for it, as did many others who probably did not want to. It passed 70 to 1, this one being Senator Pettus of Alabama. There were nineteen who did not vote and among them were Allison, Aldrich, Bailey, Penrose, and Tom Platt.⁹⁵

In this last session in which Clark appeared, he introduced three individual pension bills, four other bills, and two amendments. The bills and amendments were as follows:

(1) "To survey and allot the lands embraced within the limits of the Blackfeet Indian Reservation, and to open the surplus lands to settlement." This bill passed in the Senate and was sent to the House, but it died there in the committee to which it was referred.⁹⁶

(2) Two bills were introduced for the benefit of the State of Montana: one was to grant the State 50,000 acres of land to aid

⁹³Ibid., p. 893.

⁹⁴Ibid.

⁹⁵Ibid., p. 895.

⁹⁶Ibid., Index (S7674), p. 60. Clark, in speaking for this bill, explained that the President had vetoed a similar bill last session, but that the objectionable features had been covered in the new bill, and that the Indian Affairs Committee (including LaFollette) had unanimously approved it. See Congressional Record, op. cit., p. 1887.

in the maintenance of a school for the blind⁹⁷; and the other was to grant the State a like amount of land for the maintenance of a school for the feeble-minded.⁹⁸ Neither of these bills were ever reported out of the Committee on Public Lands.

(3) A bill to grant "to the various States the lands owned by the United States within the limits thereof." This bill did not get out of the Committee on Public Lands.⁹⁹ It is interesting to note that this same question is constantly agitated today, nearly thirty years later, but has never been culminated. Clark was looking far into the future in this case.

(4) An amendment to the Indian Appropriation Bill which proposed "to confirm the grants to and title of the Raven Mining Company in and to sixty-three claims on the Uintah Reservation," in Utah¹⁰⁰; nothing was done about this, however.

(5) An amendment "to provide for the disposal of timber on public lands chiefly valuable for lumber, and for other purposes"¹⁰¹; this subject was brought up for debate once, but was set aside temporarily, and nothing else came of it.

On January 17, 1907, Clark was one of the Senators to eulogize and pay tribute to a former fellow-Senator, William B. Bate of Tennessee, who had died some months before as a result of an illness contracted at the inaugural ceremonies of the President, in which he participated. Clark had been seated next to Bate in the Senate Chamber and had become very fond of him. Clark mentioned that it was his "good fortune...to exchange with him the glad morning greetings which his kindly heart always prompted."¹⁰²

⁹⁷Ibid., Index (S8164), p. 75.

⁹⁸Ibid., Index (S8165), p. 75.

⁹⁹Ibid. (S8199), p. 1865.

¹⁰⁰Ibid., p. 1065.

¹⁰¹Ibid., p. 3079.

¹⁰²Ibid., p. 1270.

Clark further spoke of how the fatal illness had been directly brought to his attention because of their intimacy. He said,

"I recall the sad incident where at my own home, at a formal dinner party at which he was to have been the guest of honor, while waiting for his arrival the first tidings of his serious illness came unexpectedly to all present and cast a gloom upon the festivities of the occasion."¹⁰³

Bate and Clark had stood shoulder to shoulder in their fight against joint Statehood for New Mexico and Arizona, and Clark pointed out that the defeat of that measure was one of the greatest political triumphs of Bate's life.

Bate had been a soldier. When little more than a boy he had enlisted to fight in the Mexican War. Here he served with distinction and was promoted to a lieutenancy. He enlisted as a private in the Confederate Army the day after Fort Sumter was fired upon. When the war was over he had become a major-general. His career during the war, according to Clark, was an "interesting and delightful theme"; a story of

"almost constant engagement in battle throughout the entire period of the war; of frequent wounds and narrow escapes, having had three horses killed under him in one battle; of persistence in fighting when physically disabled; of reluctance to yield when the cause so dear to his heart was absolutely hopeless...."¹⁰⁴

Bate was nearly eighty years old at the time of his death. He had been Governor of Tennessee for two terms, and had been elected to the Senate four times. Clark ended his speech by saying:

"All these honors were richly deserved, and the State of Tennessee proudly and gratefully bestowed them in recognition

¹⁰³Ibid., p. 1270.

¹⁰⁴Ibid.

of the splendid achievements and valorous service of her noble son, William Brimage Bate, the loyal citizen, the brilliant soldier, the honored statesman."¹⁰⁵

This was Clark's only eulogy in the Senate, and he was proud that Bate's friends had seen fit to ask him to say a few words in appreciation of the Tennessean.

Clark was against Roosevelt's policy in Santo Domingo and consequently against the treaty resulting from that policy. The little Dominican Republic was bankrupt; with the current revenues no larger than they were, it could scarcely have been otherwise. The estimated revenues for 1904 equalled only the current running expenses plus even less than one-third of the total amount of interest charges on the public debt of \$32,000,000 of which \$22,000,000 was held by Europeans. France, Italy, and Belgium announced late in 1904 that they would proceed to forcible collection of the debts of their citizens unless the United States should take in charge the finances of the island and administer them honestly.¹⁰⁶

Since the United States would not permit the Monroe Doctrine to be violated, our minister at Santo Domingo asked the President of the Republic to invite the United States to take over the collection of Dominican customs. He did so and a treaty was drawn up making the United States the receiver of the bankrupt Republic. The Senate refused to ratify this treaty but Roosevelt went ahead with his plan anyway, under an "executive agreement." He informed Congress that he would continue to do so until the

¹⁰⁵Ibid.

¹⁰⁶Murray, op. cit., II, p. 395.

Senate ratified the treaty. Roosevelt "was roundly abused in the Senate for this piece of 'executive usurpation,' but the success of his plan was so complete" that the Senate finally gave in and ratified the treaty in a slightly altered form two years later, February 25, 1907.¹⁰⁷

The treaty continued to be objectionable to Clark, and he registered his opposition to it regardless of Roosevelt's successful policy. The treaty was ratified in the evening when Clark was not in his seat, so consequently he did not vote on it. He was the only Senator who did not vote or was not paired, so the newspapers insinuated that he had evaded voting. Clark claimed that he was temporarily absent from the Senate but gave no reason; that he did not expect an important question of the kind to come up at such a late hour; that he had had no notification that it would come up; and that he had a general pair with Senator Beveridge who had not observed it when the treaty was voted on.¹⁰⁸

Clark again reiterated his opposition to the treaty, indicating that he would have voted against it and had voted against it in the Committee of Foreign Relations, and then proceeded to show by mathematical precision that even had he been there and voted against it, the treaty would have been ratified just the same. Senator Beveridge answered Clark in a very courteous manner, apologizing for not having observed the pair, but saying that he did not realize that Clark was absent. Clark in answering absolved Beveridge from any blame.

¹⁰⁷Ibid., p. 396.

¹⁰⁸Congressional Record, op. cit., pp. 4571-2.

Senator Clark was against Japanese immigration. On February 16, 1907, he made a short speech in the Senate stating his views. It was at this time that this question had reached a crucial point in California because: (1) Japanese labor working for low wages created unemployment among American laborers who could not compete because of the difference in the standards of living; (2) Japanese children and even Japanese adults were crowding into the public schools; (3) Japanese farmers were buying land in California which they were putting into orchards and vegetable gardens, making another form of competition.

Clark was in sympathy with California for he was talking also for Montana and the other western States. He was particularly interested in a clause of a proposed treaty that would permit the Japanese to migrate to our insular possessions; but if they were to enter the United States ultimately, the President might refuse to admit them if he thought they were detrimental to "the interests of labor."¹⁰⁹

Clark thought this a very foolish method of handling the question. He said:

"It is...clothing one man with too much power. It is giving him the authority to legislate...it is a question of such far-reaching results that we ought not to rely upon the judgment and discretion of any one man, even though he occupy the exalted position of President of the United States.

"I am confident that we have no treaty with Japan which would allow the President the power to exclude Japanese subjects from entering our ports if they should come directly from Japan to the United States. Now...to make this provision consistent... it should go further and say that the President of the United

¹⁰⁹Ibid., p. 3096.

States, when he believes that laborers or coolies coming directly from Japan into the United States, to the detriment of the labor interests, should have the power to refuse them entrance.

"This whole proposition...is ill advised, crude, and vague, and will accomplish nothing, and it is unworthy of being framed into an important immigration bill like this. It is one of those exclusion propositions which does not exclude, and never will exclude, undesirable people...it is due to the people of the Pacific coast and of the great States of the entire West that the influx of hordes of coolies, whether they come from China or Japan or any other country, should be absolutely prohibited by a well-considered act of Congress, and that we should not attempt to deal with the question by such a proposition as this, which no one can completely comprehend and which will be barren of important results."¹¹⁰

Out of all this discussion came the Root-Takahira agreement of 1908 (after Clark was out of the Senate) in which the Japanese government undertook to prevent the immigration of laborers to the United States; and in return the school authorities of California modified their ruling by allowing Japanese pupils under a certain age limit and with a sufficient knowledge of English to attend the public schools.¹¹¹

Clark was, on the whole, opposed to Roosevelt's conservation policy. He, with many other Senators, disliked the President's withdrawal from entry by homesteaders of millions of acres of timber land and the creation of the National Forest Reserves. This is somewhat understandable in Clark's case because he used thousands of feet of timber in his mines. By the creation of the forest reserves the mining corporations would be unable to own much timber land, nor could the timber that they would use be so cheaply obtained.

¹¹⁰Ibid., p. 3096.

¹¹¹Muzzey, op. cit., II, p. 439.

His speech on the subject, however, centered mainly on costs and the injustice to the homesteader. His bill to have the Federal Government give to the States all the public land within their boundaries becomes more understandable, since it would give the States the control over forests. This might mean less control than under the Federal Government. At the time of Clark's speech Congress was attempting to assert its rights: it was considering the passing of a law saying that a forest reserve could be created or enlarged only by an act of Congress.

Clark began his speech by a tribute to the Western pioneer. After acknowledging the rights of the Government in the disposition of the public domain, he said:

"...but we claim that the hundreds of thousands of men and women who have gone to the western country, braved the perils, and endured the hardships of frontier life are also entitled to some consideration. It is those people who have given to the forests of the western country any value they possess."¹¹²

He then gave his reason for wanting the States to control the public land within their borders.

"Each State and Territory knows better than the Government the conditions existing within its borders, and is more capable than the Government to make a proper and satisfactory disposition of the public lands."¹¹³

His opposition went further:

"...the sentiment of the people of Montana is...practically a unit in opposition to (any) proposition of leasing the public domain for grazing purposes. Every organized livestock association in that State condemns it...we are not opposed to forest

¹¹²Ibid., p. 3724.

¹¹³Ibid.

reserves in the western country, but we are opposed to the rapid extension of the system which is now in vogue. I am opposed to the amendment...which proposes to increase the appropriation for the purposes of forest reserve development."¹¹⁴

Clark was also opposed to telephone systems and roads in the forests. Regarding the costs, he said:

"...I should like to know how it is proposed to establish and maintain a system of telephones in a forest reserve. We all know it cost considerable money--\$200 or \$250 per mile--to erect a proper telephone line, and we likewise know that a telephone system erected wherever there is a large amount of timber is constantly out of repair, because of falling trees. It would require an enormous sum of money; first to erect telephone systems that would be of any utility over such large areas of land, amounting now, I believe, to 127,000,000 acres, and their maintenance would be so great a charge as to make the expenditure enormous...also...it would be absolutely impracticable to build a system of wagon roads through that vast region of country."¹¹⁵

He then attempted to show that the forest reserves were too large to be patrolled. He used as an example the State of Montana with 17,000,000 acres withdrawn, and pointed out:

"Allowing 25,000 acres for each patrolman--and I believe that would be much more than he could properly attend to--it would take about 1,000 patrolmen in order to look after or exercise any control of the fires that might occur in that State...When a fire once gets started, trees having foliage of a resinous nature are so inflammable that the flames leap from tree to tree and go on burning, and it would be impossible for anybody or any number of foresters, if there were thousands of them there, to ever stop one of those fires."¹¹⁶

¹¹⁴Ibid., p. 3724.

¹¹⁵Ibid.

¹¹⁶Ibid., p. 3725.

In discussing the forest reserves themselves, Clark admitted that the "watersheds" where "the snows fall deep in winter" should be protected in order to prevent the snow from melting too fast and causing "torrential floods" when warm weather and the rains came. He further admitted that the Forestry Department should clear up the forests from fallen timbers and the discarded tops from cut-down trees, and that it should systematically thin out the forests so some of the trees would grow larger; but he was opposed to giving the Chief of the Forestry division too much authority. On this he said:

"...he should be confined to certain restrictions, and not be allowed too much scope and means with which, in the operation of the forestry system and of the proposed [leasing of grazing lands], to build up a system of landlordism and tenantry in the Rocky Mountains, as this would be obnoxious to all of those people."¹¹⁷

Clark professed to believe that no homeseeker would deliberately go into a forest reserve and "make a location." His reasons were that if any of the homesteaders' horses or cattle happened to stray into the adjacent public land, he would at once get into trouble with the forest ranger; in addition the home would be isolated and a road to it through the forest would be contested. Clark went on to say that the homeseekers were the ones who should be encouraged; that even then, many of them were migrating to Canada. Considerable land, he maintained, had been withdrawn from entry that was nothing but agricultural land, some of it sparsely timbered and some with practically no timber at all. At all events he

¹¹⁷Ibid., p. 3725.

believed that the homeseeker was entitled to as much timber as he needed in the development of his farm without any restrictions whatever.

In referring to the conservationists Clark became a little sarcastic. He said:

"We all deplore the demudation of the forest lands. In Montana we do not like to see the forest disappearing, although there they have simply cut a little ways into the edges of them. I am not one of those alarmists who believe what has been said about the total annihilation of the forests of the country and the total exhaustion of the coal deposits of the country within a short period of time. We deplore the destruction of the forests, but we consider that we get more than value received in what we take from them. Is it to be held that a forest is something sacred, never to be disturbed?

"When civilization sprang up and spread out over the world, men began to cut down the forests, to utilize them in providing shelter for themselves, in building homes and cities, in building ships, and for the general uses of an industrial people...They have the land left...and land is sometimes more desirable and valuable than timber...by a proper system of reforestation, if they do not wish to establish agriculture, they can allow the trees to grow...and in twenty-five or thirty years the forests will be restored."¹¹⁸

In closing his speech Clark became prophetic; he was looking hopefully into the future, evidently believing in the ability of man to take care of himself.

"Forests," he said, "have been cut out only as demanded for beneficial use in the interests of industrial progress. We are building for the future as well as for the present. In rearing the great structure of empire on this Western Hemisphere we are obliged to avail ourselves of all the resources at our command. The requirements of this great utilitarian age demand it. Those who succeed us can well take care of themselves...in the light of the development that has taken place in the last quarter of a century in the way of control and application of electricity, I

¹¹⁸Ibid., p. 3726.

believe that although the forests may disappear and the coal deposits may become exhausted during the coming century, the genius of man will provide methods for developing economically both heat, light, and power through the medium of electricity that will supply all the needs and requirements of the coming generations."¹¹⁹

In spite of the opposition of the Senate, which after all reflected the views of Big Business, the conservation policy went on. Instead of being weakened and subordinated, this policy has been strengthened and extended until the present time. Under the leadership of President Roosevelt, the people of the United States became "conservation conscious." Many public men have referred to Roosevelt's work in attempting to conserve our natural resources as his "greatest service" to his country. Yet it was a fight every step of the way. When Congress refused to appropriate money for the work of the national conservation commission, the President persuaded clerks and executives in various other departments to volunteer their services to carry on the work. Then Congress interfered again. It was Representative James A. Tawney of Minnesota who was responsible for a law which "forbade all bureaus doing any work for commissioners on boards appointed by the President."¹²⁰ Roosevelt maintained that this was an infringement of his rights as chief executive and declared that he would disregard the amendment. "It is for the people," he said, "to decide whether they believe in the conservation movement." Roosevelt carried on the work, but with lessened efficiency. He was strongly backed by the Supreme Court. It upheld the constitutionality of his conservation policy

¹¹⁹Ibid.

¹²⁰Muzzey, op. cit., II, p. 449.

in every case which came to it, and by a unanimous decision in every case but one.¹²¹

This session of Congress that ended on March 4, 1907, was the end of Clark's political career.¹²² He was sixty-eight years old, but he was destined to live eighteen years longer. He quietly retired from the Senate and spent the rest of his life largely in travel and at his beautiful home, "Clark's Folly," at 962 Fifth Avenue, New York City. His Paris home, which he had used considerably, he managed to dispose of when the World War broke out in 1914.

In his old age he was free to enjoy his art gallery which was probably one of the finest private collections in the world, and to live in a home which challenged the admiration and the awe of everyone, prince or pauper. When Clark decided to build this home, his wish was to put the finest materials in it that could be had. When he found the kind of marble he wanted he bought the quarry where it was produced. The bronze used was cast in his own reduction works. It took six years to build, and it cost \$7,000,000. Clark was essentially an owner, not a partner; he acquired properties and made money from them by the application of sound business principles, regardless of what others might say. He was reticent

¹²¹Ibid., pp. 449-50.

¹²²Clark was succeeded by Joseph M. Dixon who had been a Representative in the House. He also served but one Senatorial term. He became Governor of Montana in 1921 but was defeated for reelection through the efforts of the Anaconda Copper Mining Company, because he sponsored a gross metals mines tax. Dixon was again defeated for United States Senator in 1928. He was Under-Secretary of the Interior during the Hoover Administration, 1929-33.

and secretive; no one knew his business, for he attended to it himself, and he remained that way to the last.

His last will and testament was made in 1922, three years before his death. He had been ailing for two years, and the end came with a severe attack of pneumonia, March 2, 1925. Even though he had lived in New York the last years of his life, he claimed in his will that he was a resident of Montana. This claim was largely substantiated by the fact that the last vote he ever cast was in Montana. Besides New York and Montana, Clark could easily have claimed residence in Arizona and California. But it was Montana where he had come as a pioneer during the Civil War; it was Montana that had made possible his vast fortune; it was Montana that had given him political honors, great and small; and it was to Montana that he was loyal to the end.

BIBLIOGRAPHY

I. SOURCES (ORIGINAL)

A. Official

Clark, W. A., "Centennial Address on the Origin, Growth and Resources of Montana," in Contributions to the Historical Society of Montana, Vol. II, pp. 45-60, Helena, State Publishing Co., 1896.

Congressional Record, 55th-60th Congresses, Vols. XXXII-XLI inclusive, Washington, Government Printing Office, 1899-1908.

House Journals of the Sixth and Seventh Sessions of the Legislative Assembly of the State of Montana, Helena, Independent Publishing Co., 1899-1901.

Laws, Resolutions and Memorials of the State of Montana Passed at the Sixth and Seventh Regular Sessions of the Legislative Assembly, Helena, Independent Publishing Co., 1899-1901.

Proceedings and Debates of the Constitutional Convention in Helena, July 4 to August 17, 1889, Helena, State Publishing Co., 1921.

Report of the Committee on Privileges and Elections of the United States Senate on the Right of William A. Clark to a Seat in the Senate, 56th Cong., 1st Sess., Report No. 1052, Washington, Government Printing Office, 1900.

Senate Journals of the Sixth and Seventh Sessions of the Legislative Assembly of the State of Montana, Helena, Independent Publishing Co., 1899-1901.

Whiteside Manuscript, written by Fred Whiteside about 1931, giving an account of the exposure of bribery in the Senatorial election of 1899.

B. Unofficial

Connolly, C. P., The Devil Learns to Vote, New York, Covici, 1938.

Connolly, C. P., "The Story of Montana," in McClure's Magazine, Vols. XXVII-XXVIII, 1906-1907.

Foraker, Joseph B., Notes of a Busy Life, 2 Vols., Cincinnati, Stewart and Kidd Co., 1917.

LaFollette, Robert M., Autobiography, Madison, The Robert M. LaFollette Co., 1913.

Mangan, William Daniel, The Clarks: An American Phenomenon, New York, Silver Bow Press, 1941.

Mangan, William Daniel, The Clarks of Montana, published anonymously, 1939.

Marshall, Thomas R., Recollections of Thomas R. Marshall, A Hoosier Salad, Indianapolis, Bobbs-Merrill Co., 1925.

II. SECONDARY

A. Books

Bishop, Joseph B., Theodore Roosevelt and His Time, 2 Vols., New York, Charles Scribner's Sons, 1920.

Bowers, Claude G., Beveridge and the Progressive Era, Cambridge, Houghton Mifflin Co., 1932.

Dunn, Arthur Wallace, From Harrison to Harding, 2 Vols., New York, G. P. Putnam's Sons, 1922.

Gilbert, Clinton W., The Mirrors of Washington, New York, G. P. Putnam's Sons, 1921.

Glasscock, C. B., The War of the Copper Kings, Indianapolis, Bobbs-Merrill Co., 1935.

Muzzey, David S., The United States of America, 2 Vols., Chicago, Ginn and Co., 1924.

Orcutt, William D., Burrows of Michigan and the Republican Party, 2 Vols., New York, Longmans Green and Co., 1917.

Pearson, Drew, and Allen, Robert, The Washington Merry-Go-Round, New York, Liveright Inc., 1932.

Peck, Harry T., Twenty Years of the Republic, New York, Dodd Mead and Co., 1907.

Phillips, Paul C., "William Andrews Clark," in Dictionary of American Biography, Vol. IV, p. 144, New York, Charles Scribner's Sons, 1950.

_____, "Marcus Daly," in Dictionary of American Biography, Vol. V, p. 45, New York, Charles Scribner's Sons, 1950.

- Progressive Men of Montana, Chicago, A. W. Bowen and Co., 1901.
- Raymer, Robert George, Montana, The Land and the People, 3 Vols., Chicago, Lewis Publishing Co., 1930.
- Regier, C. C., The Era of the Muckrakers, Chapel Hill, University of North Carolina Press, 1932.
- Rhodes, James Ford, History of the United States from the Compromise of 1850, 9 Vols., Macmillan Co., 1909.
- Sanders, Helen Fitzgerald, A History of Montana, 3 Vols., Chicago, Lewis Publishing Co., 1913.
- Stout, Tom (Ed.), Montana, Its Story and Its People, 3 Vols., Chicago, The American Historical Society, 1921.
- Watson, James E., As I Knew Them, Indianapolis, Bobbs-Merrill Co., 1936.
- Who's Who in America, New York, A. N. Marquis Co., 1901-1942.
- Woodward, W. E., George Washington, The Image and The Man, Boni and Liveright, 1926.

B. Periodicals

- Atlantic Monthly, Vols. LXXXIII to C, 1900 to 1908.
- Cosmopolitan Magazine, Vol. XL, 1906.
- Current Literature, New York, Vols. XXV to XLIV.
- Harpers Monthly Magazine, Vols. XCVIII to CXVI, 1898 to 1908.
- The Independent, Vols. XLIV to LXIV, 1900 to 1908.
- Knapp, H. R., "William Andrews Clark," in Cosmopolitan, February, 1903, p. 474.
- The Nation, Vols. LKVIII to LXXVII, 1899 to 1908.
- The New Republic, Vols. I to X, 1915 to 1917.
- The Outlook, Vols. LXI to LXXXV, 1899 to 1907.
- Review of Reviews, Vols. XXIV to XXVII, 1899 to 1903.
- World's Work, Vols. I to XV, 1900 to 1908.

C. Newspapers

The Anaconda Standard, 1898-1901.

The Butte Miner, 1898-1901.

The Helena Independent, 1898-1901.

The Missoulian, 1898-1901.

Labor, March 7, 1925.

Silver State Post, July 16, 1932.

D. Personal Interviews

John M. Evans, Washington, D. C.

George Gordon, Bozeman, Montana.

Henry L. Myers, Billings, Montana, formerly of Hamilton, Montana.

Mrs. Edith Owens, Bozeman, Montana.

Arthur L. Stone, Missoula, Montana.

APPENDIX I

CLARK'S NEZ PERCE ADVENTURE

Clark's "war adventure" is given here in his own words:

"When the Nez Indians, consisting of Chief Joseph and his band of about 400 warriors, together with their women and children, numbering 150, invaded western Montana in July, 1877, coming over the Lolo trail, it gave great alarm to the people of western Montana, and particularly the Bitter Root valley, where they first made their appearance....

"Governor Potts was then at Missoula and wired me, authorizing me to go to Butte to enlist volunteers to go to their aid. I was at Deer Lodge at the time and rode to Butte horseback in three hours. I proceeded upon arriving there to sound the alarm with reference to the invasion of the Indians and called for volunteers. In the space of a few hours three companies had been formed, one after another, and everything in the way of vehicles for transportation of the troops to Deer Lodge was secured, and the three companies of volunteers started out for Missoula. I was appointed by the Governor as major of the battalion. We traveled all night arriving at Deer Lodge in the morning, when I received a message from the Governor stating that the Indians had started up the Bitter Root valley, and therefore directed me to proceed to the head of the Big Hole with a view of aiding the soldiers under General Gibbon, who had been sent to intercept the Nez Percés at that point.

"Before we could reach Gibbon, he had a terrible fight with the Indians and lost, killed and wounded about seventy-five men. General Howard was coming up behind the Indians when after the battle they fled. Thence they went to the Snake river country and were afterwards captured by General Miles, who was sent out from Fort Keogh to intercept them in their flight to Canada."*

* The Silver State-Post, a weekly newspaper published at Deer Lodge, Mont. Article by John K. Standish in the issue of July 16, 1932.

APPENDIX II

SHORT SKETCHES

Col. Wilbur F. Sanders served in the Union Army during the Civil War. He was a lawyer and the fearless prosecutor of George Ives, the road-agent. He is best known for his work as a Vigilante. He was a member of the Montana Legislature and was a Delegate to the Republican National Nominating Conventions of 1868, '72, '76, and '84. He served as United States Senator from Montana from 1889 to 1893. He was a trustee of Montana Wesleyan University for sixteen years. Sanders died in 1905.

Martin Maginnis served in the Union Army during the entire Civil War, from April, 1861, to June, 1865, rising during this time from the rank of private to major. He was Territorial Delegate to Congress from Montana for six terms 1872-1884, and a member of the Montana Constitutional Convention in 1889.

Thomas C. Power was first and foremost a business man, his interests including retail stores, banking, and livestock. He was a delegate to the Republican National Nominating Convention in 1884. He was defeated for Governor in 1888. He was United States Senator from Montana from 1889 to 1895.

Thomas C. Marshall was born at Paducah, Kentucky, December 14, 1851. He studied law and was admitted to the bar in Kentucky in 1875. In 1883

Marshall came to Montana and settled at Missoula. He soon became the attorney for several corporations in Montana and later had interests in mining properties. He served in the territorial legislature in 1887, being chairman of the judiciary committee. He became a Republican in 1892, having formerly been a Democrat. He was the Republican nominee for Congress in 1898 but was defeated by a small plurality.

Wm. W. Dixon was a prominent Montana lawyer. He was a member of the Montana territorial legislative assembly and a member of both constitutional conventions of 1884 and 1889. He served in the House of Representatives for one term, 1891-93. He died in 1910.

Lee Mantle served several terms in the Montana territorial legislative assembly. He was a delegate to the Republican National Nominating Convention in 1884. He was elected Mayor of Butte in 1892. He was appointed United States Senator in 1893 by Governor Rickards, but the Senate denied him a seat. He was elected United States Senator in 1895 and served until 1899. He is largely remembered for his eulogy of Senator Thomas H. Carter.

Joseph K. Toole was born in Missouri May 12, 1851. He came to Montana in 1869, where he studied law and was admitted to the bar in 1870. He was territorial delegate to the National House of Representatives for two terms 1885-89. He took part in drawing up both the State Constitutions of 1884 and 1889. He was Governor of Montana for two terms, 1889-93

and 1901-05. He received votes for United States Senator in the Sixth Montana Legislature from the first to the tenth ballots inclusive.

Theodore Brantly was born in Tennessee February 12, 1851. He graduated from a Presbyterian College in Clarksville, Tennessee, in 1874, and later studied law at Cumberland University at Lebanon, Tennessee, graduating in 1881. He came to Montana in 1887 where he was admitted to the bar in 1888. He taught in the College of Montana for a short time. In 1892 he became judge of the Third District of Montana which position he held until 1898. He became chief justice of the Montana Supreme Court January 1, 1899, which position he held until his death September 17, 1922.

William T. Pigott was born in Missouri November 3, 1861. He studied law at the University of Missouri, graduating in 1880, coming to Montana shortly after graduating. He practiced law in Virginia City, Great Falls, and Helena at various times. He was a member of the State Board of Education and of the State Board of Law Examiners. He was also at different times both president and vice-president of the Montana American Bar Association. He was associate justice of the Montana Supreme Court 1897-1903 and again in 1918.

William H. Hunt came from a very distinguished family. His father was Secretary of the Navy under Presidents Garfield and Arthur, and it was he who laid the foundation for the inauguration of the policy that rehabilitated the American Navy, making it a modern fleet of warships. President Arthur then sent him as Minister to Russia; he died at his post

in St. Petersburg. The son, William H. Hunt, Jr., was born at New Orleans November 5, 1857. He entered Yale with the class of 1878, but ill health prevented graduation. He was given an honorary A. M. from Yale in 1896. He was collector of customs for Montana and Idaho 1881-85 and attorney-general of Montana 1885-87. He became judge of the first judicial district in 1889, and was associate justice of the Montana Supreme Court 1894-1900. He was appointed Secretary for Porto Rico in 1900 and became the Governor of that Island the following year, which position he held until July 4, 1904. In 1910 he was judge of the United States Court of Customs Appeals and that same year he was appointed United States circuit judge at San Francisco.

Charles R. Leonard was born December 3, 1860, at Iowa City, Iowa. He came to Butte, Montana, in 1890. He was one of the Republican candidates for the State Legislature in 1892 but was defeated. He was elected State Senator in 1894. He was Republican National Committeeman from Montana from 1896 to 1900, and delegate several times to the Republican National Conventions.

Cornelius B. Nolan was a native of Ireland. He was born in Limerick County, December 24, 1855. He came to America in 1873, living first near Oswego, New York, for four years. He worked in a leather establishment in Allegheny, Pennsylvania, in 1877 and the following year began to study law at St. Louis in the office of Robert B. Foster. He was admitted to the bar in 1884 in Missouri. In the meantime he had learned stenography,

and spent three years in Chicago in a wholesale house perfecting this work, after which he came to Montana. He soon became the court reporter of the First Judicial District of Montana. In 1889 he was elected prosecuting attorney of Lewis and Clark County on the Democratic ticket. He was a member of the Twelfth Legislative Session of Montana. He was elected Attorney-General of Montana in 1896. In 1899 Nolan aided Odell McConnell, the county attorney of Lewis and Clark County, in the Grand Jury investigation; and it was Nolan who took a conscientious stenographic report of all that transpired there. He aided in questioning every witness except John B. Wellcome. Nolan was a very good campaign speaker, witty, facile, and capable. The author heard him eulogize Woodrow Wilson and denounce Charles Evan Hughes in the campaign of 1916. Nolan was accused of using "Montana terms" by Senator Chandler, when he was denouncing John S. M. Neill before the investigation committee, because Neill had said in his Independent that Nolan had been purchased, bought, and sold by the Daly faction. See Sanders, History of Montana, Vol. II, pp. 1353-4; also Senate Report, Part III, p. 1672.

APPENDIX III

WHITESIDE IN NEILL'S OFFICE

The story of Whiteside's being taken to Neill's office "leaked out" and became one of the choicest bits of gossip that was making the rounds in Helena. Whiteside was looked upon both as a fool and as a hero, all according to the point of view of the narrator. He admitted that the Clark adherents offered him a quarter of a million dollars not to make any exposure if he had any intention of doing so. Arthur L. Stone, a Representative from Missoula County in that famous session, tells the story a little differently. He claims that Whiteside received much rougher treatment at Neill's office than Connolly indicates; that they did everything to Whiteside except "beat him to a pulp." He was searched from head to foot for that money; not finding it that way, they slit and shredded his clothes to see if it was somewhere in the linings. Also, according to Stone, Whiteside was kept in that office until six o'clock in the morning of January 10. In the meantime Whiteside's room was thoroughly searched. The bed was all torn up and the mattress was cut into ribbons in trying to make that room yield the elusive \$30,000. The drawers of the dresser were dumped out on the floor. But the one little drawer of the washstand, since it contained practically nothing, was left in place; and the money was not found. Stone claimed that Whiteside had already given the committee his testimony that afternoon, so that it was not necessary to see them again that night. Stone characterized Whiteside as being one of the most adventuresome men who ever lived. He

really enjoyed a desperate tangle of this kind, whereas most men, while wishing heartily to see wrong-doing meet its just punishment, naturally shrank from taking any part in it themselves.

APPENDIX IV

MURDER IN PRECINCT VIII

The story of this murder is in connection with the county fights to elect State Senators and Representatives to the State Legislature. It will be remembered that in the fall election of 1898 Clark repudiated the entire Democratic ticket and made an open alliance with the Silver Bow Republicans in order to defeat the Daly-Democrats for the Legislature. Precinct No. 8 in Butte was a stronghold of the Daly faction. Connolly tells what happened there:

"About half-past four on the morning of November 9th the judges of the precinct were droning off the tallies when the door of the lonely, candlelighted booth was suddenly thrust open and two men, wearing white masks, burst in and ordered judge and tally-men to throw up their hands. Dennis O'Leary, an unarmed special officer, grappled with the first man, and John J. Daly, one of the election clerks, sprang to his assistance. O'Leary was seriously wounded, and John Daly was shot dead. One of the judges threw himself across the ballot-box as Daly fell, and the assassins dashed through the door and disappeared in the darkness. They were never brought to justice, though a reward of \$10,000 was offered for their apprehension. John Hannifan, a witness at the coroner's inquest, testified that the hands of the assassin were small and white, and that on his left hand he wore a diamond ring."¹

It was universally believed that the perpetrator of this foul deed was none other than Charles W. Clark. He usually wore a diamond ring on his left hand. It was also rumored at that time that he was apt to be arrested for murder. Young Clark remained in Montana a little less than three years after this episode. In 1901 he became enmeshed in another

¹C. P. Connolly, The Devil Learns to Vote, (New York, Covici Friede, 1938), p. 124.

unsavory bribery mess. He entered into a temporary alliance with the Amalgamated Copper Company in order to wreck the fortunes of F. Augustu Heinze, the protege of Marcus Daly. In this connection Charlie Clark offered Judge Edward W. Harney a bribe of a quarter of a million dollars to sign a statement that he had already been bribed by Heinze. Harney refused and later a criminal information was filed against Charlie, but he avoided this by fleeing to California. For the rest of his entire life, Charlie made but two brief trips to Montana, and these long after the criminal charges had been dropped. He became the general manager at Jerome, Arizona, of his father's United Verde Copper Mine, which position he held until 1922. He lived at San Mateo, California, until his death on April 8, 1933. The ballot box which the assassins had come to take had 302 Daly-Democratic votes and 17 Clark-Republican votes. The destruction of these ballots would have elected the Republicans in Silver Bow County.

It was also believed that another Butte man by the name of Jack Hoy knew something about that murder, but so far as is generally known he never made any statement before he died in 1930. Hoy did a great deal of the undercover work for the Clark faction. He was the happy type of individual without a care in the world, and was quite a joker. He was a short, heavy-set Irishman, a hard fighter, and a tough antagonist under any circumstance. Had he lived a few years later, he probably would have been a gangster and racketeer; he was nearly one anyway. He was one of the best of the Clark heelers and look-out men. No one ever knew where he would appear next. He was arrested several times but nothing substan

was ever found against him that would warrant a trial. After a release he would go down to the news office and make fun of the reporters because they could not find out anything about him. With all his meanness, he was very sociable and even at times quite likable.

W. D. Mangam, in his recent book, The Clarks of Montana, gives another version of the murder. He says:

"On the night of November 8, 1898, as the votes for the legislative candidates were being counted, Clark sat late in his office above his bank, waiting for the returns. There word came to him that the vote was going heavily against him in Precinct Eight, always a Daly stronghold. Clark sent for Tom Hinds, and together they discussed a plan. Tom Hinds went out, promising to send Clark a man who would carry out the plan, but himself refusing to touch it. Presently Jack Burns came in to see Clark. Within two hours Burns was on his way up the hill to the voting booth at Precinct Eight, taking with him Frank Hinds, the brother of Tom Hinds. Wearing masks and carrying guns, they broke into the booth where the judges were counting the ballots. There was an attempt at resistance, and Dennis O'Leary was shot in the shoulder and John Daly was killed. The masked men fled without the ballot box....

"The miners gave a day's pay toward a fund of \$10,000 to offer as a reward for the capture of the assassins, but they were never taken. Two years later Frank Hinds died by his own hand. Jack Burns was appointed State Mine Inspector by Governor Toole, through the influence of William A. Clark, and his duties obliged him to stay in Helena half the time. Before the election Burns was regarded as a brave man, was well-liked, but after that time despair drove him to drink heavily, and he died within a few years."²

²W. D. Mangam, The Clarks of Montana, published anonymously, 1939 pp. 55-56.

APPENDIX V

TABULATION OF LEGISLATIVE MEMBERS VOTING FOR CLARK IN SENATORIAL ELECTION OF 1899

The tabulation of the membership of the Senate and House of those who voted for Clark on that eighteenth ballot, with other information, is as follows:

SENATE

<u>Name</u>	<u>County of Residence</u>	<u>Political Affiliation</u>	<u>Amount of Money Received for Vote</u>
<u>Bowlen, C. C.</u>	<u>Carbon</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Connolly, Jerry</u>	<u>Granite</u>	<u>Populist</u>	<u>\$ 5,000</u>
<u>Cullen, Thomas P.</u>	<u>Dawson</u>	<u>Democrat</u>	<u>\$15,000</u>
<u>Geiger, J. H.</u>	<u>Flathead</u>	<u>Republican</u>	<u>\$15,000</u>
<u>Gruwell, C. O.</u>	<u>Yellowstone</u>	<u>Democrat</u>	<u>Actually received money but exact amount unknown</u>
<u>Hannah, W. J.</u>	<u>Sweet Grass</u>	<u>Democrat</u>	<u>\$15,000</u>
<u>Hoffman, C. W.</u>	<u>Gallatin</u>	<u>Democrat</u>	<u>\$10,000^A</u>
<u>Hobson, S. S.</u>	<u>Fergus</u>	<u>Republican</u>	<u>\$50,000</u>
<u>Mahan, A. W.</u>	<u>Valley</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Mitchell, S. L.</u>	<u>Teton</u>	<u>Republican</u>	<u>\$25,000</u>
<u>Phillips, B. D.</u>	<u>Choteau</u>	<u>Republican</u>	<u>\$25,000</u>
<u>Riddell, W. C.</u>	<u>Lewis and Clark</u>	<u>Democrat</u>	<u>Not known as to whether he received anything^F</u>
<u>Tierney, W. E.</u>	<u>Broadwater</u>	<u>Democrat</u>	<u>\$15,000</u>
<u>Warner, D. G.</u>	<u>Jefferson</u>	<u>Democrat</u>	<u>\$15,000</u>

HOUSE

<u>Name</u>	<u>County of Residence</u>	<u>Political Affiliation</u>	<u>Amount of Money Received for Vote</u>
<u>Beasley, W. W.</u>	<u>Sweet Grass</u>	<u>Republican</u>	<u>\$10,000</u>
<u>Bennett, W. G.</u>	<u>Lewis and Clark</u>	<u>Democrat</u>	<u>Not known as to whether he received anything^F</u>
<u>Black, Powell</u>	<u>Meagher</u>	<u>Democrat</u>	<u>\$ 5,000</u>
<u>Bywater, Stephen</u>	<u>Flathead</u>	<u>Republican</u>	<u>\$15,000</u>
<u>Conrow, J. M.</u>	<u>Park</u>	<u>Democrat</u>	<u>Amount received unknown^G</u>
<u>Day, E. C.</u>	<u>Lewis and Clark</u>	<u>Democrat</u>	<u>\$ 5,000^B</u>
<u>Eversole, W. C.</u>	<u>Broadwater</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Fine, E. J.</u>	<u>Madison</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Flinn, Robert</u>	<u>Cascade</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Garr, H. H.</u>	<u>Flathead</u>	<u>Democrat</u>	<u>\$ 6,000</u>
<u>Gibson, F. L.</u>	<u>Madison</u>	<u>Democrat</u>	<u>Amount received unknown if anything^G</u>
<u>Gillette, J. H.</u>	<u>Cascade</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Hill, H. M.</u>	<u>Jefferson</u>	<u>Democrat</u>	<u>\$10,000</u>
<u>Hutchinson, W. O.</u>	<u>Lewis and Clark</u>	<u>Democrat</u>	<u>Not known as to whether he received anything^F</u>
<u>Ingersoll, G. F.</u>	<u>Custer</u>	<u>Republican</u>	<u>\$10,000</u>
<u>Jacqueth, A. J.</u>	<u>Flathead</u>	<u>Republican</u>	<u>\$10,000</u>
<u>Johnston, J. H.</u>	<u>Carbon</u>	<u>Silver Republican</u>	<u>\$ 5,000</u>
<u>Kuohal, F. W.</u>	<u>Lewis and Clark</u>	<u>Democrat</u>	<u>\$ 4,000</u>
<u>Lockhart, W. H.</u>	<u>Jefferson</u>	<u>Democrat</u>	<u>\$ 5,000</u>
<u>Long, C. C.</u>	<u>Fergus</u>	<u>Republican</u>	<u>\$10,000</u>
<u>Losekamp, J. D.</u>	<u>Yellowstone</u>	<u>Democrat</u>	<u>Amount received unknown if anything^G</u>

Name	County of Residence	Political Affiliation	Amount of Money Received for Vote
Luddy, P. H.	Jefferson	Democrat	\$10,000
Magee, G. W.	Teton	Republican	\$17,000
Marcy, G. F.	Custer	Republican	\$15,000
Martin, J. E.	Gallatin	Democrat	\$10,000 ^E
McLaughlin, H. W.	Missoula	Democrat	\$20,000
McLeod, John	Gallatin	Democrat	\$10,000 ^E
Metlen, D. E.	Beaverhead	Democrat	\$10,000 ^C
Moran, J. T.	Choteau	Democrat	Amount received unknown if anything ^G
More, E. V.	Meagher	Silver Republican	\$10,000
Parker, L. C.	Granite	Silver Republican	\$10,000
Paul, G. T.	Beaverhead	Democrat	\$10,000 ^C
Phelps, J. I.	Lewis and Clark	Democrat	Not known as to whether he received anything ^F
Potting, H. H.	Lewis and Clark	Democrat	Not known as to whether he received anything ^F
Shovlin, M.	Broadwater	Democrat	\$ 8,500 ^D
Sweeney, W. J.	Lewis and Clark	Democrat	Not known as to whether he received anything ^F
Swindlehurst, T.M.	Park	Silver Republican	Amount received unknown if anything ^G
Truscott, J. L.	Valley	Democrat	Amount received unknown ^G
Walsh, John	Gallatin	Democrat	\$10,000 ^E
Woods, E. P.	Ravalli	Democrat	\$ 7,000

^AMr. Hoffman was not charged with accepting this by the memorial to the United States Senate. It rests upon the statement of Thomas E. Butler to E. H. Cooney, that "all the boys from Bozeman got \$10,000 apiece."

Hoffman, in his testimony, said that he knew of no acts of bribery in Helena. Hoffman's position in private life, President of the Bozeman National Bank, made it easy for him to cover up any financial transaction between himself and Clark, and correspondingly difficult to trace. See Senate Report, Part II, p. 1559. See also Cooney's testimony, p. 703; and Butler's, pp. 706-8 inclusive.

^BMr. Day did not receive his \$5,000 strictly as compensation for his vote. After the Legislature adjourned, he was given as a present two certificates of deposit of \$2,500 each. The money was in Clark's Butte bank. The gift was for the splendid work Day did on the floor of the Legislature, in Clark's behalf. It was Day who made the motion that a second ballot be taken on January 28. See Senate Report, Part III, pp. 1830 and 1941.

^CAbsolute proof of the complicity of Metlen and Paul is somewhat lacking. There is ample proof that they were offered \$10,000 each, separately and individually, and jointly with State Senator Edwin L. Norris, \$50,000. Norris never did vote for Clark, but Metlen started voting for him on the eleventh ballot, and Paul voted for him on the final eighteenth ballot. This was the well-known strategy of the Clark forces. As Wellcome expressed it--to allay suspicion--the support for Clark would not be called for until after several ballots had been cast. Maybe Metlen and Paul voted for Clark just for fun, but it hardly stands to reason that they did. Both men were fairly well-to-do, however; nevertheless, such a temptation is strong, especially when they listened to Wellcome's arguments and statements: "Anybody that voted for Clark without being paid for it was a fool," etc. Chances are a hundred to one that they took the money. Wellcome at one time said he might have to buy some of Metlen's cattle. Senate Report, testimony of W. A. Clark of Madison County, Part p. 249.

^DThe memorial has it that Shovlin received \$7,000 but he deposited \$8,500 in the Montana National Bank at Helena on March 2, 1899. It is possible that he received as much as \$10,000. Senate Report, Part III, p. 2317.

^EAs in the case of Senator Hoffman, the receiving of money by Martin, McLeod and Walsh rests upon Butler's statement to Cooney. Representative Martin was a director of the Gallatin Valley National Bank of Bozeman, and it was to this bank that Walter Cooper, one of the foremost of the Clark henchmen, owed considerable money. It was indicated at the time by those who were supposed to be "in on the know" that the bribe to Martin was accomplished by the simple expedient of paying Cooper's debt to the bank. Mr. Cooper had a very fine family, the members of which were held in affection and highly respected by those who knew them; nevertheless the Coopers were known as people who, if they paid their bills at all, did so only very slowly. Mr. Cooper made a rather poor showing when

he told the Senate of his financial transactions. In one case he admitted that he took up a \$17,000 judgment against him for \$7,500. He also told of borrowing money directly from Clark at various times, because he could not get it anywhere else. See Cooper's testimony, pp. 1711-17.

Representative Walsh went into the clothing business in Bozeman after the Legislature adjourned. It was common talk that he bought his stock of goods with the money he received from Clark. His business was a success, and he retired quite wealthy several years later. After Walsh had voted for Clark, the Bozeman Chronicle came out in an editorial endorsing strongly Walsh's stand. The proprietors, Yerkes and Fell, received \$2,500 from him for this bit of help to him. At least one gets this idea from reading Hartman's cross-examination of Walter Cooper, Senate Report Part III, p. 1704, and Part II, p. 703.

F The Lewis and Clark County delegates composed of Senator Riddell and Representatives Bennett, Hutchinson, Phelps, Potting, and Sweeney were almost compelled to vote for Clark anyway, because sentiment in Helena was so strong for him. It is highly probable that these men received nothing at all. The other two members of this delegation were Day (explained in Note B) and Kuphal, who received \$4,000, according to the memorial. The daughter of Speaker Stiff, Mrs. Edith Owens, told the author that Hutchinson received \$25,000. She was in a "position to know" as the Owens and Hutchinson families were quite intimate. He lost all this and more besides when W. G. Conrad's bank failed some time afterward.

G It is virtually a certainty that the individuals so checked (G) received some money for their votes. In several cases there is little or no proof, however. In the case of Representative J. M. Conrow from Livingston, A. J. Steele and A. J. Davidson deputed Representative Powell Black of Meagher County to go to Livingston and "get" Conrow. Black claimed that he had "landed his fish" within an hour after he arrived at Conrow's office. See Rector's testimony, p. 582. Conrow voted for Clark from the first ballot.

Mr. Whiteside could not remember what was said about F. L. Gibson of Madison County. See Whiteside's testimony, p. 108. Whiteside knew that something had been said about obtaining the vote of J. D. Losekamp of Yellowstone County, but couldn't remember definitely enough to state just what it was. See his testimony, p. 109. Gibson began voting for Clark on the tenth ballot and Losekamp on the eighth. But Whiteside remembered that Wellcome told him that they were negotiating for the vote of J. L. Truscott of Valley County. He said the same man made the deal that secured Senator Mahan's vote of the same county. See Whiteside's testimony, p. 110. Truscott began voting for Clark on the third ballot.

The details of just what T. M. Swindlehurst of Park County and J. T. Moran of Choteau County received are lacking virtually in entirety. Swindlehurst began voting for Clark on the fifteenth ballot and Moran no

until the final eighteenth. These votes have all the "earmarks" of having been bought and paid for.

In addition to the above, Representative R. M. Sands, a Republican from Choteau County, received \$15,000. He never did vote for Clark, however. Instead, he was absent from his seat in the House on January 28, when both the seventeenth and eighteenth ballots were cast.

Connolly, in his account*, says that Thomas Lyon, county attorney of Jefferson County, was a member of the Legislature; but in this he is in error. He even tells what Lyon did with the money he obtained from Clark, namely, that "he had \$2,000 on deposit in his wife's name, had paid off a mortgage of \$1,000 on his house, and had a small 'nest-egg' left." Lyon was a Clark hench-man, was in Helena during the legislative session, and was active in rounding up legislators to vote for Clark. No doubt he received the money for rendering this service. On one occasion he also claimed he was to receive part of Hill's \$10,000.

*Connolly, op. cit., pp. 34-35.